E	Joseph J. Gaffigan	white	Deputy Managing Director
E	Gordon Cavanaugh	white	Deputy Managing Director
E	Thomas A. Mills	white	Deputy Managing Director
CS	Saverio F. Brunetti	white	Municipal Dispensary Retired 3-4-71
E	John M. McNally	white	Deputy City Solicitor
E	George J. Ivins	white	Deputy City Solicitor
E	John A. Mattioni	white	Deputy City Solicitor
E	Otto R. Winter	white	Commissioner, Procurement
CS	Robert Chantigian	white	Deputy, Procurement
E	James L. Ferguson	white	Deputy Director of Finance
E	Irvin R. Davis	white	Deputy Director of Finance
E	John J. Donnelly	white	Deputy Director of Finance
CS	Henry D. LeCerff	white	Deputy Director of Finance
CS	Joseph W. Hickey	white	Deputy Director of Finance
CS	Bernard B. Eiss	white	Deputy Director of Finance
E	Thomas W. Rogers	white	Revenue Commissioner
E	S. Harry Galfand	white	City Representative
E	David G. Davis	white	Deputy Representative
E	Irvin J. Good	white	Deputy Representative Resigned 1-1-71
E	Richard L. Olanoff	white	Deputy Representative
CS	William T. Burns	white	Deputy Representative
CS	Gordon Jacobson	white	Deputy Director, Division of Aviation
E	Joseph F. O'Neill	white	Commissioner of Police

E	Robert J. Selfridge	white	Deputy Commissioner
E	Morton B. Solomon	white	Deputy Commissioner
E	Randolph E. Wise	white	Commissioner of Public Welfare
E	Manuel Kaufman	white	Deputy Commissioner
E	Edward J. Hendrick	white	Superintendent, Philadelphia Prisons
E	William A. Costello	white	Commissioner, Department of Public Property
CS	Edson L. Tennyson	white	Deputy Commissioner
CS	Paul J. Marzullo	white	Deputy Commissioner
E	James J. McCarey	white	Fire Commissioner
E	William J. Eckles	white	Deputy Commissioner
E	Joseph B. McKenna	white	Deputy Commissioner
E	Samuel S. Baxter	white	Water Commissioner
E	Charles E. Vickerman	white	Deputy Commissioner
CS	Carmen F. Guarino	white	Deputy Commissioner
E	Leo Goldstein	white	Streets Commissioner
E	Stuart W. Adams	black	Deputy Commissioner
E	John M. Scruggs	white	Deputy Commissioner
CS	James W. McPhillips	white	Chief Engineer
E	Clarence A. Dockens	black	Commissioner, Licenses and Inspections
E	Robert R. Taylor	white	Deputy Commissioner
E	Paul L. McSorley	white	Commissioner of Records
E	Robert W. Crawford	white	Commissioner of Recreation
E	Norman R. Ingraham	white	Commissioner of Public Health
E	Walter J. Lear	white	Deputy Commissioner
CS	Lewis D. Polk	white	Deputy Commissioner
CS	Carl C. Janowsky	white	Division Director
CS	Alfred S. Bogucki	white	Division Director
CS	David A. Soricelli	white	Division Director

CS	Arthur Wallach	white	Division Director
CS	John L. Clay	white	Division Director Resigned 8-10-71
CS	Kristine S. Knisely	white	Division Director
CS	Louis P. Matucci	white	Division Director
CS	Leon Soffer	white	Deputy Commissioner, Mental Health
CS	Marvin E. Aronson	white	Medical Examiner
CS	Edward Wilson	white	Assistant Commissioner, Air Management Service
E	Foster B. Roser	white	Director of Personnel
E	Lewis S. Taylor	white	Deputy Director
E	Melvin Hardy	black	Executive Director, Phila. Anti-Poverty Action Commission
E	Goldie Watson	black	Director, Model Cities
E	William Will	white	Deputy Director
E	Elton W. Barclay	white	PGH Retired 6-30-71
E	Daniel A. Hall	black	PGH
CS	Ernest E. Zeger	white	PGH
E	Alfred C. LaBoccetta	white	PGH

2. That other than those listed above there are no employees of the City of Philadelphia (other than those appointed by other elected officials, including the Court of Common Pleas), who are exempt from civil services under Section 7-301 of the City Charter, and whose salaries are in excess of $20,000 per year. Denied

3. That the following are all staff members of Boards, Authorities, or Commissions (as indicated) in the City of Philadelphia appointed by defendant Tate, and that they are of the race indicated:

E	Harry Ferleger	white	Civic Center
E	Harold H. Salkind	white	Civil Defense

E	Clarence Farmer	black	Human Relations
	Francis J. Myers	white	Redevelopment Authority
	Walter D'Alessio	white	Redevelopment Authority
E	R. Damon Childs	white	City Planning Commission

4. That the above are the only staff members of the Boards, Authorities, or Commissions appointed by defendant Tate whose salaries are in excess of $20,000 per year.

5. That the following are all of the Boards, Authorities, or Commissions appointed by defendant Tate, that they are comprised of the number of members indicated, and that they have the number of black members indicated:

Commission on Higher Education	16 members (1 black)
Board of the Civic Center	11 members (1 black)
Commission on Human Relations	9 members (5 blacks)
City Planning Commission	8 members (1 black)
Art Commission	10 members (0 black)
Philadelphia Historical Commission	10 members (0 black)
Redevelopment Authority	5 members (2 blacks)
Mental Health & Mental Retardation Advisory Board	8 members (1 black)
Board of Health	8 members (0 black)
Board of Ethics	5 members (1 black)
Board of Labor Standards	7 members (0 black)
Gas Commission	5 members (1 black)
Plumbing Advisory Board	5 members (0 black)
Recreation Coordination Board	8 members (2 blacks)
Air Pollution Control Board	9 members (0 black)
Board of Trustees, PGH	7 members (1 black)
Child Welfare Advisory Board	15 members (4 blacks)
Board of Trustees, Riverview	7 members (1 black)

Board of Trustees, Philadelphia Prisons	6 members (0 black)
Civil Service Commission	4 members (1 black)
Fair Housing Commission	5 members (1 black)
Parking Authority	4 members (0 black)
Board of Zoning Appeals	5 members (1 black)
Board of Licenses & Inspection Review	6 members (1 black)
Veterans Advisory Commission	7 members (1 black)
Tax Review Board	5 members (1 black)
Board of Trustees of American Flag House and Betsy Ross Memorial	8 members (0 black)
Board of Building Standards	5 members (1 black)
Sinking Fund Commission	3 members (0 black)
Electrical Code Advisory Board	7 members (0 black)
Commission on Services to the Aging	27 members (7 blacks)
Philadelphia Housing Authority	5 members (2 appointed by Mayor; of his appointments, 1 is black)

6. That the 1970 census shows the Philadelphia population to be 1,948,609, of whom 653,791 are black.

7. That defendant Tate, upon naming the present Educational Nominating Panel, designated Anthony Cortigene as Chairman.

EDWIN D. WOLF
Attorney for Plaintiffs

IN THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

(TITLE OMITTED IN PRINTING)

ANSWER AND OBJECTIONS TO REQUEST FOR ADMISSIONS

Defendants, by their counsel, hereby answer and object to Plaintiffs' Request for Admissions as follows:

1 to 5 inclusive. These requests are objected to by defendants on the grounds that they are erroneous, misleading and, in any event, are not relevant and cannot lead to the ascertainment of relevant evidence for use at the trial.

6. It is admitted that the 1970 census shows the population of the City of Philadelphia as stated in this request. The accuracy of the 1970 census for the City of Philadelphia is specifically denied.

7. Denied.

JOHN MATTIONI
Deputy to the City Solicitor
LEVY ANDERSON
City Solicitor

*Note: Affidavit omitted in printing.

IN THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

(TITLE OMITTED IN PRINTING)

ANSWERS TO REQUEST FOR ADMISSIONS

1. Admitted that all of the listed persons are employees of the City of Philadelphia in the capacities stated except those named below. It is denied that all of the listed personnel "are all exempt from civil service." It is admitted that apparently the persons identified as black are so. Defendants can neither admit nor deny other racial denominations although they are probably substantially correct. In the hiring and maintenance of personnel records, the City of Philadelphia does not keep, maintain or require employees to designate race or national origin.

The list of names submitted is in error in that the following persons listed are not employees of the City at this time:

Saverio F. Brunetti
Irvin J. Good
John L. Clay
Elton W. Barclay

Tina V. Weintraub is no longer Deputy Managing Director but is now Executive Director of Philadelphia General Hospital.

2. Denied. Furthermore, of those listed, at least 23 are or were Civil Service employees (2 of those named who are no longer City employees were Civil Service).

3. Admitted.

4. Denied.

5. Denied in part and admitted in part. By way of further answer, you are advised that there are in addition to the boards and commissions named, at least eight other boards or commissions existing in the City of Philadelphia. With respect to the membership and composition of the boards and commissions named, they are admitted except as follows:

Redevelopment Authority—5 members (1 black)
Recreation Coordination Board—10 members (2 black)
Board of Trustees—Phila. Prisons—6 members (1 black)
Civil Service Commission—three members (1 black)
Board of Building Standards—5 members (2 black)

The various appointments, whether by the Mayor or otherwise, comprising the commissions and boards of the City of Philadelphia, consist in fact of many social, ethnic, racial and religious origins and all such appointments are made without regard to race.

6 and 7. Defendant incorporates by reference the answers to these two requests previously made.

JOHN MATTIONI
Deputy to the City Solicitor
LEVY ANDERSON
City Solicitor

*Note: Affidavit omitted in printing.

IN THE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

SUPPLEMENTAL ANSWERS TO REQUEST FOR ADMISSIONS

2 and 4. As of August 22, 1971, the following were all non-Civil Service employees whose salaries were in excess of $20,000.00. Only those names listed, following James H. J. Tate, and up to and including L. Taylor, were appointed by the Mayor. These appointees included staff members of Boards, Authorities and Commissions whose salaries are in excess of $20,000.00 per year:

Paul D'Ortona—Council
James H. J. Tate—Mayor

APPOINTED BY THE MAYOR

Anthony P. Zecca—Mayor's Office
Donald W. Kramer—Mayor's Office
Melvin L. Hardy—Mayor's Office (Black)
Harold H. Salkind—Office of Civil Defense
William H. Will—Development Coordinator
Goldie E. Watson—Development Coordinator (Black)
Joseph J. Gaffigan—Managing Director's Office
Thomas A. Mills—Managing Director's Office
Fred T. Corleto—Managing Director
Gordon Cavanaugh—Managing Director's Office
Joseph F. O'Neill—Commissioner, Police Department
Robert Selfridge—Police
Morton Solomon—Police
Leo Goldstein—Streets Commissioner
John M. Scruggs—Streets

William J. Eckles, Jr.—Fire
James J. McCarey—Fire
Joseph B. McKenna—Fire
Norman R. Ingraham—Public Health
Walter J. Lear—Public Health
Daniel A. Hall—Public Health (Black)
Tina V. Weintraub—Phila. General Hospital
Robert W. Crawford—Recreation
William A. Costello, Commissioner—Public Property
Randolph E. Wise—Public Welfare
Manuel Kaufman—Public Welfare
Edward J. Hendrick—Philadelphia Prisons
Clarence A. Dockens—Licenses & Inspections (Black)
Robert Taylor—Licenses & Inspections
Samuel S. Baxter—Commissioner—Water Department
Charles E. Vickerman—Water Department
Paul L. McSorley—Records
Romanus J. Buckley—Finance Director
John J. Donnelly—Finance
Irvin R. Davis—Finance
James L. Ferguson—Finance
Otto R. Winter, Commissioner—Procurement Dept.
Richard L. Olanoff—City Representative
David G. Davis—City Representative
S. Harry Galfand—City Representative
Lillian Berg—Commerce
Harry Ferleger—Phila. Civic Center
Karl I. Schofield—Law Department
Levy Anderson—City Solicitor—Law Department
Harry Wolov—Law Department
Albert J. Persichetti—Law Department
James L. Pié—Law Department
Theodore H. Lunine—Law Department
John M. McNally, Jr.—Law Department
George J. Ivins—Law Department
John Mattioni—Law Department

R. Damon Childs—City Planning Commission
Keith Doms—Phila. Free Library
Clarence Farmer—Commission on Human Relations (Black)
Foster B. Roser—Personnel Director
L. Taylor—Personnel

NOT APPOINTED BY THE MAYOR

Walter P. Harris—Auditing (Black)
Gilbert Stein—Auditing
Tom Gola—City Controller
Erwin Lodge—Clerk of Quarter Sessions Court
William A. King, Jr.—Register of Wills
Martin Vinikoor—District Attorney's Office
William H. Wolf, Jr.—District Attorney's Office
Richard A. Sprague—District Attorney's Office
Joseph F. Dougherty—District Attorney's Office
Arlen Specter—District Attorney
Delores Wilson—District Attorney's Office (Black)
Victor J. DiNubile—District Attorney's Office
Charles W. Sweeney, Jr.
William J. Stevens, Jr.
Edmund L. Levine
Eugene V. Alessandroni
Michael J. Rotko
James D. Crawford
Louis P. Mitrano
Wilhelm F. Knauer, Jr.
Walter W. Cohen
Paul R. Michel
Charles A. Haddad
James J. Fitzgerald
Edward G. Rendell
Robert E. Gabriel
Martin H. Belsky
Ivan M. Czap

Barnett S. Lotstein
Julian B. Brereton (Black)
Lynne M. Abraham
David Richman
Taras Wochok
Arthur R. Makadon
Esther R. Sylvester
Melvin M. Dildine
T. Michael Mather
Milton M. Stein
William M. Lennox—Sheriff
Maurice S. Osser—City Commissioner
Louis Menna—City Commissioner's Office
Francis B. Patterson—City Commissioner's Office
Joseph Matusow—Court of Common Pleas
Leonard Rosengarten—Court of Common Pleas
Nicholas G. Frignito
Thomas F. Carmody
Edward J. Blake
Americo V. Cortese—Prothonotary
Larry P. Polansky
Calvin T. Wilson (Black)
Fred H. Downs, Jr.
Stanley J. Bassett

5. Following are the names, total membership, number of members appointed by the Mayor and number of Black persons appointed by the Mayor of all the Boards, Authorities or Commissions of the City of Philadelphia:

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
Air Pollution Control Board	7	7	0

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
American Flag House and Betsy Ross Memorial Trustees	8	7	0
Art Commission	9	8	0
Barbers' Advisory Board	14	14	1
Board of Building Standards	5	4	1
Board of Education	9	9	2
Board of Ethics	5	5	1
Board of Health	7	6	0
Board of Labor Standards	5	5	0
Board of License and Inspection Review	6	6	1
Board of Pensions and Retirement	9	0	8
Board of Safety and Fire Prevention	20	4	0
Camp William Penn Board of Trustees	8	7	1
Child Welfare Advisory Board	15	15	3
City Planning Commission	9	6	1

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
Civic Center Board of Directors	11	7	1
Civil Service Commission	3	3	1
Civil Service Commission Nominating Panel	7	0	0
Commission on Higher Education	16	15	1
Commission on Human Relations	9	9	5
Community College Nominating Panel	16	0	0
Community College Board of Trustees	15	15	1
Community Nursing Service	14	6	1
Educational Nominating Panel	13	13	2
Electrical Code Advisory Board	7		0
Fairmount Park Commission	16	0	0
Free Library of Phila., Board of Trustees	21	8	0
Gas Commission	5	2	0

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
Hartranft Community Corporation	28	1	0
Independence National Historical Park Advisory Commission	11	3	0
Mayor's Committee on Municipal Hospital Services	22	22	3
Mayor's Scholarship Committee	8	8	0
Mayor's Traffic Safety Advisory Committee	23	23	0
Mental Health and Mental Retardation Advisory Board	7	7	1
Navigation Commission for the Delaware River	11	3	0
Passenger Service Improvement Corporation of Philadelphia	15	11	0
Philadelphia Anti-Poverty Act Commission	32	3	1
Philadelphia Authority for Industrial Development	7	7	0

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
Philadelphia Commission on Services to the Aging	27	22	7
Philadelphia Fair Housing Commission	5	5	1
Philadelphia General Hospital Charitable Foundation	14	13	1
Philadelphia General Hospital Board of Trustees	7	6	1
Philadelphia Historical Commission	7	4	0
Philadelphia Housing Authority	5	2	1
Philadelphia Housing Development Corporation	35	0	0
Philadelphia Industrial Development Corporation	30	15 (with Chamber of Commerce)	1
Philadelphia Parking Authority	5	5	0
Philadelphia Port Corp.	33	0	0

Name	*Total Membership*	*Members Appointed By Mayor*	*Black Persons*
Philadelphia Redevelopment Authority	5	5	2
Plumbing Advisory Board	5	5	0
Prison Board of Trustees	7	6	1
Recreation Coordination Board	10	3	2
Riverview Board of Trustees	7	6	1
Service Standards Committee (for SEPTA)	5	1	0
Sinking Fund Commission	3	1	0
Southeastern Pennsylvania Transportation Authority	11	2	0
Tax Review Board	5	5	1
Technical Advisory Committee on Zoning	10	7	1
Tinicum Wildlife Preserve Advisory Board	6	6	0
Tri-Institutional Facilities Corp.	13	3	0

Name	*Total Member-ship*	*Members Appointed By Mayor*	*Black Persons*
Veterans' Advisory Commission	7	7 (with President of City Council)	1
Zoning Board of Adjustment	6	5	0

*Note: Affidavit omitted in printing.

Excerpts of Plaintiffs'
Final Pre-Trial Order

* * *

Part III—Facts

A. *Uncontested Facts*

1. The present Board of Education for the School District of Philadelphia is comprised of seven (7) white members and two (2) black members.

2. The dates in Paragraphs 20 and 25(d) of the Complaint are accepted as accurate.

3. The following Tables accurately list appointments to the Educational Nominating Panel for the years 1965, 1967, 1969 and 1971. The members are listed categorically as defined in Section 12-206(b)(c) of the Educational Supplement by name, organization or profession, and race.

EDUCATIONAL NOMINATING PANELS

Sec. 12-206(b)(1)

1965	Edward F. Toohey	Pres., Philadelphia Council AFL-CIO	White
1967	Edward F. Toohey	Pres., Philadelphia Council AFL-CIO	White
1969	Edward F. Toohey	Pres., Philadelphia Council AFL-CIO	White

1971	Edward F. Toohey	Pres., Philadelphia Council AFL-CIO	White

Sec. 12-206(b)(2)

1965	Gustav G. Amsterdam	Vice Pres., Philadelphia Chamber of Commerce	White
1967	Gustav G. Amsterdam	Vice Pres., Philadelphia Chamber of Commerce	White
1969	John P. Bracken	Pres., Philadelphia Chamber of Commerce	White
1971	Charles Tyson	Pres., Penn Mutual Insurance Company	White

Sec. 12-206(b)(3)

1965	Mrs. Beatrice Marks	Pres., Philadelphia Home and School Council	White
1967	Mrs. David Ewing	Pres., Philadelphia Home and School Council	White
1969	Mrs. Bernard Featherman	Pres., Philadelphia Home and School Council	White
1971	Mrs. A. Sherwood Platt	Pres., Philadelphia Home and School Council	White

Sec. 12-206(b)(4)

1965	Mrs. Marjorie Duckrey	Pres., Citizens' Com. on Public Education in Philadelphia	Black
1967	Mrs. Marjorie Duckrey	Pres., Citizens' Com. on Public Education in Philadelphia	Black
1969	Raymond K. Denworth	Pres., Citizens' Com. on Public Education in Philadelphia	White
1971	Mrs. Marjorie Duckrey	Pres., Citizens' Com. on Public Education in Philadelphia	Black

Sec. 12-206(b)(5)

1965	Leon Raider	Pres., Federations of Community Councils	White
1967	Charles Borkin	Pres., Federations of Community Councils	White
1969	Mrs. Mary Anderson	Member, Citywide Recreation & Playground Adv. Council	White
1971	Mrs. Mary Anderson	Member, Citywide Recreation & Playground Adv. Council	White

Sec. 12-206(b)(6)

1965	Walter A. Gay	Pres., Urban League	Black
1967	William S. Rawls	Pres., Urban League	White
1969	Joseph P. McLaughlin	Member, National Conf. of Christians & Jews	White
1971	Freeman Hankins	State Senator	Black

Sec. 12-206(b)(7)

1965	Mrs. H. Robert Cathcart	Pres., League of Women Voters	White
1967	Mrs. H. Robert Cathcart	Pres., League of Women Voters	White
1969	Lennox Moak	President, Pennsylvania Economy League	White
1971	Lennox Moak	President, Pennsylvania Economy League	White

Sec. 12-206(b)(8)

1965	Dr. Gaylord P. Harnwell	Pres., University of Pennsylvania	White
1967	Dr. Gaylord P. Harnwell	Pres., University of Pennsylvania	White
1969	Dr. Paul Anderson	Pres., Temple University	White
1971	Very Rev. Terrence Toland	Pres., St. Joseph's College	White

Sec. 12-206(b)(9)

1965	T. H. Husted, Jr., Esq.	Vice Pres., Philadelphia Housing Association	White
1967	William J. C. Hughson	Pres., Philadelphia Housing Association	White
1969	Frederick L. Ballard, Esq.	Member, Board of Directors, Health & Welfare Council	White
1971	Richard Herman	Realtor	White

Sec. 12-206(c) At-large Appointees

1965	Bro. Daniel Bernian	Pres., LaSalle College	White
	G. Fred DiBona, Esq.	Attorney	White
	William C. Willis	Vice Pres., Temple University	White
	Rev. Henry Nichols	Religious & Civic Leader	Black
1967	Bro. Daniel Bernian	Pres., LaSalle College	White
	G. Fred DiBona, Esq.	Attorney	White
	William C. Willis	Vice Pres., Temple University	White
	Charles W. Bowser, Esq.	Attorney	Black
1969	Anthony Cortigene	Amalgamated Clothing Workers Union	White
	Freeman Hankins	State Senator	Black
	Martin P. Mullin	State Representative	White

	Edward G. Bauer, Jr.	City Solicitor	White
1970	Dr. Saul Kaplan		White
	Luke Farrell	Knights of Columbus	White
	Louis Johanson, Esq.	Attorney	White
	Levy Anderson, Esq.	City Solicitor	White

B. *Plaintiffs' Statement of Contested Facts*

1. Defendant Tate appointed twelve (12) white members and one (1) black member to the Educational Nominating Panel on May 28, 1971.
2. At a later date defendant Tate replaced one white member of the Panel with a black appointee.
3. Defendant Tate appointed Mr. Raymond K. Denworth to the Panel even though Mr. Denworth was not the highest ranking officer of the Citizens' Committee on Public Education in Philadelphia.

Part IV—Law

A. *Plaintiffs' statement of the applicable law is set forth in plaintiffs' Memorandum Contra Motion to Dismiss.*

This pretrial order may be modified at the trial of the action, or prior thereto, to prevent manifest injustice. Such modification may be made either on application of counsel or on the Court's own motion.

EDWIN D. WOLF
Attorney for Plaintiffs
JOHN MATTIONI
Attorney for Defendants

Date:

Excerpts of Defendants'
Final Pre-Trial Order

* * *

Part III—Facts

A. *Uncontested Facts*

The following changes in the information contained in the Final Pretrial Order submitted by counsel for the plaintiffs should be made:

1. In Reference to Section 12-206(b)(1):
   1971 Charles Tyson, Pres., Penn Mutual Insurance Company should be changed to:
   Richard Herman, Member of the Board of Directors of the Chamber of Commerce.
2. In reference to Section 12-206(b)(6):
   1971 Freeman Hankins, State Senator, should be changed to:
   Freeman Hankins, Life Member, Board of Trustees NAACP
3. In reference to Section 12-206(b)(9):
   1971 Richard Herman, Realtor should be changed to:
   1971 Charles Tyson, Member of the Board of Directors of the Greater Philadelphia Movement (GPM)
4. In reference to Section 12-206(c):
   The designation of the year as 1970 should be changed to 1971.

This pretrial order may be modified at the trial of the action, or prior thereto, to prevent manifest injustice. Such modification may be made either on application of counsel or on the Court's own motion.

EDWIN D. WOLF
Attorney for Plaintiffs
JOHN MATTIONI
Attorney for Defendants

Date:

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

(CAPTION OMITTED IN PRINTING)

Philadelphia, Pa., August 25, 1971

TESTIMONY

Before HON. RAYMOND J. BRODERICK, J.

Colloquy

PRESENT: EDWIN D. WOLF, ESQ., *for plaintiffs*

JOHN MATTIONI, ESQ., and HOWARD D. SCHER, ESQ., *Assistant City Solicitors for defendants*

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[2] W. WILSON GOODE, sworn.

MR. MATTIONI: If Your Honor please, I ask for an offer of proof with respect to this witness.

THE COURT: Very well.

Counsel, tell us what you expect to elicit from this witness, Mr. Goode.

MR. WOLF: Yes, sir.

Mr. Goode will testify, first of all, about the availability of Black organizations to satisfy the definitions in the Charter; he will testify about the circumstances surrounding the appointment of the Nominating Panel in 1969, when the record shows there was a substantial change-off not only in individuals and the organizations that were viewed as the proper ones under the Charter: he will direct himself as to some estimate as to the charge by the defendants of laches.

He will discuss the relevance of the racial composition of the Nominating Panel to the Black community, and he will discuss the particular importance of education in the Black [3] community.

MR. MATTIONI: Since there are only a couple of areas that I would take issue with, Your Honor, I think it best to leave them until the appropriate time.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. WOLF:

Q Mr. Goode, can you tell us what your educational background is?

A I have a Bachelor's degree in History and Political Science from Morgan State College and a Master in Government from the University of Pennsylvania.

Q What professional experience have you had?

A I am Executive Director of the Philadelphia Council for Community Advancement and I am responsible for the administration of that organization.

Q What does the organization do?

A The organization is involved in the broad field of

human services with a concentration on housing, education, and community information.

Q How long have you had the position?

A I have been with the organization for five and a half years; I have been Director for almost three.

Q What did you do before you joined PCCA?

[4] A Prior to working with PCCA I was working with the Allstate Insurance Company as a management trainee.

Q And before that?

A Before that I was in the Army and before that I was in college.

Q Have you seen the exhibits in the case?

A Yes, I have.

Q Do you have a copy of the exhibits and the pleadings there?

A I believe so.

Q Mr. Goode, I would like to show you Section 12-206(b) of the Educational Home Rule Charter.

Do you have a copy of that there?

A Yes, I do.

Q Mr. Goode, I would like you, please, referring as you go down to the descriptive listings (1) through (9), you to give us, if you could, the names and descriptions or organizations active in the Black community which fit those definitions.

A Okay.

The first one would be a labor-union council or other organization of unions.

For that, one which would fit would be the United Negro Trade Unions.

Q What does the United Negro Trade Unions represent?

[5] A That represents all of the union officials who are Black and who are in unions in Philadelphia. It's a kind of a council of other officials of other Black unions.

Q What about the next one?

A The next one is a council, chamber, or other organization.

There are a number of these. One is a group called Greater Philadelphia Community Development Corporation.

Q Who is president of that?

A The president is George Archer, who is Black.

Q Who is the executive director?

A Garfield Harris, who is also Black.

The other one is the Greater Philadelphia Enterprise Development Corporation, which is headed by Clarence Farmer, who is Black, and the director is Leroy Smith, who is also Black. There are other development corporations which could fit in there which I won't go into at this point.

The third group is a public school parent-teachers association.

Under this category there is a group called the Black Educational Forum.

Q What is that organization?

A The Black Educational Forum is a forum made up of parents, but who are mostly teachers and administrators in the public [6] school system.

The fourth one is a community organization of citizens established for the purpose of improvement of public education.

Of course, here again, the Black Educational Forum could fit. The Educational Equality League, which Mr. Logan has testified to, of course, is another and they are the two major ones that qualify in that area.

The next one is a federation, council, or other organization of non-partisan neighborhood or community associations.

There are a lot of groups which would qualify there. The North City Congress, the Citywide Black Community Council, the Citywide Tenants Council, Residents Advisory Board. They are the major ones.

Q What is the Residents Advisory Board?

A The Residents Advisory Board is a board made up mostly of tenants of public housing units throughout Phila-

delphia, although there are other groups that could belong.

The Citywide Tenants Council is an organization made up of people and organizations of tenants throughout Philadelphia.

Q Mr. Goode, do you have any particular knowledge about neighborhood community associations?

[7] A Yes. I am president of a group which is called the Paschall Betterment League in Southwest Philadelphia. Living in Southwest Philadelphia, I have been president for several years.

I am a former vice-president of the Federation of Community Councils, which was a federation of community organizations throughout Philadelphia, and I worked with the Citywide Black Community Council and I have worked with the Citywide Tenants Council, I have worked with the Housing Association of Delaware Valley, which is made up of groups of Black tenants, and in West Philadelphia I have served as Chairman of the Board of the Health and Welfare Council, and for the first time that board was made up of community organizations from West Philadelphia, which is everything west of the river, about fifty groups, so I have had this substantial exposure and involvement with community organizations in Philadelphia for the past seven or eight years.

The sixth would be a league, association, or other association established for the purpose of improvement of human and inter-group relations.

Of course, the basic one which comes to mind there is the Urban League. You may also put the NAACP in that category with it.

Q Do you know who is president of the Urban League?

[8] A. The current president of the Urban League is—the immediate past-president is Mark Herman, who is Black. The current president is William Horn, who is also Black. I believe that's correct.

I believe he was just elected. I am not sure if he was elected, but I think I recollect reading that somewhere.

Of course, the NAACP is made up of five branches with a council, which is citywide, which is headed by Dr. Grinnell, who is from Germantown.

The seventh group would be a non-partisan committee, league, council, or other organization established for the purpose of improvement of governmental, political, social, or economic conditions.

Of course, one of the groups there is the Black Youth Forum, which is made up of a group of young Black men who are interested in improvement of government.

The eighth one—I don't know of a Black institution in Philadelphia that would qualify there.

The ninth one is a council, association, or other organization dedicated to community planning of health and welfare services—of course, that could be the North City Congress, the Health and Welfare Council, the Urban League, the Black Youth Forum.

Any of those which I have mentioned before could [9] qualify there.

The important thing really is that there are a number of organizations which are in effect, which are established, which could qualify under the Charter, from which appointments could be made to the Nominating Panel.

Q Mr. Goode, I would like to refer you to Exhibit 5, Plaintiffs' Exhibit 5, which includes a list of the Nominating Panels beginning on page 5.

Do you have that?

A Yes, I do.

Q I would like to ask you to describe, if you know, some of the organizations that are listed there as having now or having had representatives on the Nominating Panel.

A Are you talking about Black organizations?

Q No. I am talking about the organizations, other organizations which in some cases might be, but I am talking about several of the organizations which are listed here. I will ask you about the organization and then I

would like you to tell me about it, what you know about it.

A Okay.

Q The first one is the Federations of Community Councils.

A The Federation of Community Councils—

MR. MATTIONI: If Your Honor please, I am going to object to this for two reasons:

[10] Number one, apparently Mr. Wolf is going to take this on sort of a piecemeal basis and those he knows the witness may know something about he is going to talk about, and apparently the others he is not going to talk about at all.

I suspect, without knowing, of course, that this witness is probably not a member of most of these organizations, although he may be a member of some.

MR. WOLF: I wish counsel wouldn't anticipate my questioning.

MR. MATTIONI: I have a problem when you want to have this witness tell us—I don't believe he is qualified as being the kind of expert to tell us what every one of these various organizations listed is, what they do, and whether there is something good, bad, or indifferent about them.

MR. WOLF: I think that such an objection as that could be brought out on cross-exam[illegible]ation of Mr. Goode, if Mr. Goode turns out not to h[illegible]

MR. MATTIONI: An objectio[illegible]n't serve the purpose of cross-examination. They are totally different.

MR. WOLF: Your Honor, if I may, I am not going to ask him about all of the names. I am only going to ask him about those organizations which are different on the 1967 and 1969 panels, that is, where there was a change, the testimony will show that in 1969 there was a particular set of nominations [11] made by the panel that were not, we believe, acceptable and the panel was housecleaned, and I would like to estab-

lish the identities of the groups that were removed and the identities of the groups that replaced them.

THE COURT: Very well.

Counsel, I will permit the questioning and I suggest that on cross-examination you can certainly bring out the facts that you think are pertinent and relevant.

BY MR. WOLF:

Q Mr. Goode, referring to the organizations which qualified or which purportedly qualified under Section 5 in 1965 and 1967, the president of the Federations of Community Councils was a member of the panel.

Could you describe for us the function of the Federations of Community Councils?

A The Federation of Community Councils was what the name suggests, and that was a federation of community organizations and Black organizations from throughout Philadelphia.

It was made up of these groups and the purpose of it was kind of to have a collective clout in particular or on behalf of all of the groups. That's basically what the group is all about.

Q Is it still in existence?

A It is still in existence in name. It is pretty much at [12] this point a paper organization.

Q When did it go out of existence?

A In other words, the end of 1968, about two and a half years ago.

Q Do you know anything about the Citywide Recreation and Playground Advisory Council?

A Yes. The Citywide Recreation and Playground Advisory Council is a federation of groups made up from the various playgrounds and recreation centers throughout Philadelphia. Of course, that's a citywide council, where all of those groups meet and elect a president.

Q Do you happen to know who the president is at the moment?

A I do not.

Q Can you describe the Urban League?

A The Urban League is an organization basically founded for the purposes of being involved in creating a better life for Blacks, although it also has in its purposes the bringing together of the races.

It primarily came into existence because of involvement in discrimination against Blacks.

Q Do you know anything about the National Conference of Christians and Jews?

A It is an ecumenical group made up of Christians and Jews for the purpose of bridging the gap between the Jewish commu- [13] nity and the Christian community.

Q Do you know anything about the League of Women Voters?

A It is a non-partisan association primarily created for the purpose of information, and that is informing the public about voter information, about candidates running for office.

It is pretty much independent in its information in terms of the effect of the politicians, in terms of the voters information in this case.

Q And the Pennsylvania Economy League? Do you know anything about that?

A The Pennsylvania Economy League is a regional organization which is primarily involved in the field of research and information in the field of finance.

It does a lot of research work, papers and documents, in order to help the cities to become better acquainted with that it ought to be doing and planning.

I have been doing this all along.

Q In 1965 and 1967 the organization was the Philadelphia Housing Association. Can you describe that to us?

A The Philadelphia Housing Association is a group created for the purposes, of course, of improvement of housing in the Delaware Valley region. Its primary purpose is one of research, but also of information; also it acts at

times as an advocate for community organizations in the field of housing.

[14] That organization was replaced in 1969 by a representative of the Health and Welfare Council.

Q Can you describe the Health and Welfare Council?

A The Health and Welfare Council is basically a recent organization in the field of health and welfare. It is kind of a clearing house of all of the various health and welfare agencies throughout the region.

One point of clarification—about three years ago the Philadelphia Housing Association did become the Housing Association of Delaware Valley. It did change its name, but its functions were essentially the same.

Q Mr. Goode, do you remember the circumstances of the appointment of the 1969 panel?

A Yes, I do, and the reason that I remember is that for a number of years a group of us have been very much interested in the whole field of education. I have been involved with the John Bartram High School Civic Council and in many other groups like the Citizens Committee on Public Education and the West Philadelphia Schools Committee.

And during that time we have pretty much kind of prepared ourselves to be aware of everything in the field of education.

Prior to the appointment, prior to 1969, we knew that there were appointments coming because of the resignation [15] of Mr. Goldman. We at that particular time decided that we were going to acquaint ourselves, and there was a big push during that time to get more Blacks on the Board of Education.

At that time we had, of course, Mr. Nicholls and Mr. Hutt, but there was a general feeling in the Black community that this was not enough representation and, therefore, there was much more needed.

There was a campaign, in fact, started at that time with letters to the Mayor and we contacted elected officials

in order to try to say to the Mayor to appoint at least a Black woman. It was stressed at that time that one be placed on the Board of Education.

Q Excuse me.

At this time in 1967 the panel was still in operation?

A At this time the 1967 panel was still in operation, and it was the 1967 panel who was going to make the nominations to the Mayor at this time.

At that particular time the Federation of Community Councils was still on. At that time Mr. Bowser was on there, Marjorie Duckrey was on there, and Mr. Hankins was also on. There were three Blacks at that time on the Nominating Panel.

The circumstances were that because of this big [16] push there were a number of Blacks who were offered to the Nominating Panel, you know, to become nominees.

The background of the Nominating Panel is that they send to the Mayor the names of two people, two out of the three for an appointment. One was a Mr. Herman Wrice, another was Mrs. Augusta Todd, two out of the three to be appointed.

At that time the Mayor made a public statement that he was not going to appoint any more Negroes to the Board because, in his feeling, they had adequate representation and that he was going to appoint someone from the nominees to the Board of Education.

He, in that statement and in talking to people on the panel—it appears that he was angered at the action of the panel.

Subsequent to that the panel was disbanded, of course, and it was reorganized, and that's when all of the changes were made in that panel.

Q Mr. Goode, why did you decide to bring this lawsuit? You are a plaintiff.

A Yes, I am a plaintiff, you know, and I can only say that I am also a parent. I have a daughter who is nine years

old, who is in the public-school system, and I have a son who is six, who has been through pre-school and who is going to be into first grade this coming September.

[17] I just could not believe that in 1971, given the racial tension that exists in Philadelphia, which exists in this country, given the composition of the population in Philadelphia, being about 35 percent Black, and given the fact that about two thirds of those students who attend public schools are Black, I couldn't believe that the Mayor would be so insensitive to the needs of the Black people and only appoint two.

And let me point out here that the thing which angered me most was, I think, that nearly the only person who was appointed was Freeman Hankins and in the Black community Mr. Hankins is not regarded as representative of the views of the Blacks because basically he is a tool for Mr. Tate, and again that is a personal thing and I say that that is the feeling there.

The fact that later on Marjorie Duckrey was put on the Board was more of an accident than something that was intended insofar as we see it.

At first, there were a number of things we thought about, and let me also say that before the appointments were made that a group of us met and wrote to the Mayor and suggested to him that we felt it was time that some appointments be made of this nature.

The letter came from a group which was called the Community Control of Schools Committee, which was an ad hoc [18] kind of group of people who met, part in the school system, part out of the school system, to talk about the affairs of the Blacks in the school system, and this letter came out from one of those meetings to the Mayor on behalf of all of us asking that there be more Blacks appointed.

It was just something and we thought about doing a lot of different things in this connection. We thought about

having public demonstrations, we thought about, you know, blocking traffic.

We talked about a lot of different kinds of things. Now we decided to file a suit because in the past we found that the courts are very friendly in terms of suits where the rights of Blacks have been in some way infringed upon.

We felt that the only hope for justice in the case was to take it to someone who was thoroughly objective and could be unbiased in terms of their views on this whole matter, and we felt that once we were able, you know, to talk about what the facts were, that the least we could get would be an objective hearing.

There was also some hope that when the community appreciation built up and when the newspapers began to suggest that something was wrong, that the Mayor would change his mind, you know, more out of expediency, and we felt that he might change his mind, so we waited for a while before filing the [19] suit.

When it became clear to some of us that he was not going to change his mind we decided that the only recourse we had was to go to court.

Q Mr. Goode, have you had other discussions than the one that you have referred to as your Committee for the Control of the Schools, with other Black citizens about the racial composition of the panel?

A Let me just say that I think that I go to probably as many meetings as anybody, and I would say that about 75 percent of all the meetings I go to, that somewhere in part of the meeting one of the things which have been talked about at those meetings has been the appointment of the Nominating Panel probably because, you see, there is a connection between the appointment of that Nominating Panel and how our Blacks see them as being dealt out of the whole system by those appointments and they felt in a sense that Mr. Tate had betrayed the Black community, and this comes back to the fact that many Blacks feel that Mr. Tate owes his election to the Black community.

You will recall the 11,000-vote plurality in that election, you know, and I was just shocked at giving the loyalty of the Black community to the Mayor in terms of the vote which he got, you know, four years ago. In fact, that his reason for being in office is due largely to the Blacks, [20] that Blacks went out and had confidence in him; and to betray the Black community in this way, I think, was a blow given them, so there has been much talk, much discussion, a lot of it anger, but much disappointment, as we believe.

Q Mr. Goode, could you tell us why, referring to this political analysis, Black people feel that the racial composition of the panel doesn't respond to their needs?

A You know, there are, of course, a lot of feelings about this. The most prevalent feeling, of course, in the Black community at the present time is that given the nature of our times, that we need in high places, meaning this time the Board of Education, Blacks who are sensitive, we need Black people.

We need the knowledge in terms of giving Black kids an image of things to look up to. Many young Blacks today feel a sense of hopelessness in terms of the system. They see the system as having dealt out Black people for the last two hundred years.

There are schools in the community today that are working to bridge that kind of a gap and who are saying if you give the system a chance it will work.

Well, what this kind of thing does is that it simply says to them that it does not work because, you know, what better opportunity would there be for a Mayor to act in the right kind of way, if his reason for being in office was [21] dependent upon Black people and then he does not respond to the Black students.

The other thing is that many Blacks want to have a control of their destiny, and that somehow there must be a field for control of what's going to happen to them, and there is a lack of confidence in Whites who are controlling

the destiny of Black kids, and this is due mostly to history, because in the past it has been proven that Whites have not worked in the best interests of Blacks, when they have in these teaching positions and the testimony of the kids from West Philadelphia High School and from Benjamin Franklin High School, the testimony as to that, because what you really get, that you find that in your Black community all of these kids see falling off, and this is straight down the line.

I have been involved for ten years in community organizations and one of the things you find is that once a community turns Black, kiss goodbye to the civic sense, and this is due primarily to the insensitivity of those who are running those operations.

Q Why is there a special concern about schools, or does the community feel this way about all civic affairs?

A I think they are concerned about the failure of civic affairs, you know. You know, if the Black people are going to make it in this country they are going to make it because of [22] education, and if you are miseducated, and if you don't really miss it, you know, there goes the interest and pride. You are not going to be able to make it in any other way.

Education is the foundation of everything—the kind of job you are going to get, the kind of housing you are going to get, the kind of reception in life you are going to have, how you are going to live and work with your fellow man.

One of the reasons that many people are involved in the field of education is because of the fact that it is the most important thing, you know, that must be right in our system if, in fact, Black people are going to begin to gain the equality which is their goal in this society.

I don't see any other thing comparable to it in terms of important.

You have been talking about the field of housing, and blight and other things, but education has to be the most

important thing, you know, because if you can't read, if you can't write, if you can't count, and if you can't think, nothing really matters, and, therefore, education has to be that foundation.

Q Do you have any contact or relationship with students?

A A lot. As I mentioned, I am involved with a group called the Paschall community group and I am very much concerned with the education of the children in the community of Paschall for [23] the last seven or eight years.

There have been many go off to college, many of the better schools in the country we have sent them off to, and we have fifteen senior-high-school children who work in the summer in the neighborhood.

We got a grant from GE. I work with the YMCA. I am chairman of the board of the Southwest Branch of the YMCA—with the YMCA in Southwest Philadelphia, which is an inter-racial group.

I work in my own community with a group of these fifteen who are this summer cleaning off lots and cleaning the neighborhood up.

I have a lot of contact with younger people.

Q Do you think that the racial composition of the Nominating Panel has an effect on students? I mean, I don't think you need to develop a trickle-down theory.

A The first statement I made, I think, is that this is inter-action with them. The whole sense of it being that if you can't trust your system, if you couldn't trust the system in 1967, the system, you know, kicks us in the backside.

The whole point simply is that much of this feeling is that if they are going to make it, they are going to make it despite the system itself.

Many of them expected that the Mayor would only [24] appoint one or two Blacks, you know, that's their regular amount.

You know, many times my idealism which makes me think everything is going to get better, but there is a

reality of the fact that they know we can go to him because I think they are more in tune with what's going on. They are probably very much less hopeful than I am in that sense.

Q What effect does this attitude have on the education of the young people?

A I am sorry, I didn't quite get your question.

Q What effect does this attitude that you have just described have upon the young people? What effect does it have on the functioning of the educational system?

A Well, you know, it varies. Some of the students get used to it. Many of them are given encouragement to go out there and show them that I have achieved something despite the system.

But to a large number of them and to far too many of them, of course, it means that they give up and lose hope. There is a whole sense of hopelessness, there is a sense of defeatism, you know, which turns into frustration, and it means school dropouts and things along that line.

MR. WOLF: Cross-examine.

CROSS-EXAMINATION

[25] BY MR. MATTIONI:

Q Mr. Goode, do you think that other people, what are referred to as other groups, should have any representation on the Board other than Black?

A Absolutely. I think that—I think that as much as possible the makeup of any board or commission should reflect the desires and aspirations of the groups which are affected by it.

I think that the difficult part here is that we are talking about two thirds of the population being black, which are effectively the statistics of this Nominating Panel, either directly or indirectly.

Certainly, I think that it involves the Puerto Ricans and other foreigners. I think that the views of the Jewish community ought to be reflected. I think that the views of the Italian community should be reflected, I think all views of other groups ought to be reflected, and I think that those desires and aspirations ought to be in some way reflected.

You know, I am not saying that the views of Blacks is the only view which ought to be had. What I am merely saying is that I want to—I am sure that the views of Black people, in fact, you know, are heard, and that the voices are there, and that there are some kinds of involvement in decision-makers which, in fact, can affect the policies which are made [26] that affect them.

Q You are not suggesting that the criteria for racial composition of the Board ultimately and of this panel now should have to reflect precisely the mathematical proportions of the school population, are you?

A No. I am not saying that there ought to be two thirds of the members of the Nominating Panel Black. I am not saying that.

I am saying that, however, there ought to be sufficient representation on that panel to reflect the goals and aspirations of that group, and I am saying that in that instance this is not the case, you know.

I am saying, well, you know, this is just not the case at all.

Q Of course, I am sure you are also not suggesting that the makeup of the public-school system is not or should not be a concern of all of us and not just those who may have children in that system?

A Right.

Q It does affect all of us, doesn't it?

A Oh, yes, but there is a difference, a big difference, you see, between being concerned in a kind of fashion and really having a kinds of sympathetic understanding and involvement with what's going on.

[27] You know, one of the problems is that far too

many Whites don't understand the dynamics of the Black community and what makes Black people tick and what makes Johnny don't come to school sometime during the year, and I am suggesting that somewhere along the line, if you are going to educate this two thirds of our population in our public-school system, there has to be reflected on the Nominating Panel and on the Board of Education, in fact, in the faculty and throughout the administration, some kind of sympathy and understanding of those things, and I don't think that you have to suffer at the present time with the kind of dropout rate we have in our school system, with the kind of absenteeism we have, with the lateness that we have, with all of the problems that we have in that kind of condition reflecting there.

That's my concern, and that's why I become emotional about those kinds of things.

Q I understand that, sir, perhaps the difficulty for a White to fully appreciate or to appreciate at all the Black man's problems, but you are not suggesting that the present Board of Education, for example, is insensitive to the students? Now, they may not react the way you think they should, but you are not suggesting here total insensitivity to what's going on?

A No, not totally, but I would go on record as saying that it is my opinion that the current Board of Education is not in [28] tune what is needed in our public-school system in order to educate our children.

Q Including the Black people on it?

A Including some of the Black members on there, yes.

MR. MATTIONI: No further questions.

MR. WOLF: I have nothing further, Your Honor.

THE COURT: Is the witness excused?

MR. WOLF: Yes, sir.

THE COURT: Thank you very much.

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IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

(CAPTION OMITTED IN PRINTING)

Philadelphia, Pa., September 7, 1971

Before HON. RAYMOND J. BRODERICK, J.

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* * *

[202] MR. MATTIONI: No, sir.

THE COURT: Do you have any other witnesses here?

MR. MATTIONI: Only Panel members.

THE COURT: Only Panel members?

We are in good shape, and let the record so note.

ANTHONY ZECCA, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MR. MATTIONI: If Your Honor please, before commencing with Mr. Zecca, on the copies of the supplemental answers to requests for admissions, perhaps in accordance with the Court's instructions that were submitted, there were two errors in the copy submitted to the Court.

On the Hartranft Community Council the Mayor's appointments numbered one and of those there were no Blacks.

THE COURT: What did the paper say?

MR. MATTIONI: Sir?

THE COURT: What did it say in the copy supplied to the plaintiff?

MR. WOLF: The original, that I am going to cor-
[203] rect, Your Honor.

MR. MATTIONI: The only thing, Your Honor, is that the copy I gave to plaintiffs' counsel was in error.

THE COURT: We understand.

MR. MATTIONI: With the Philadelphia Anti-Poverty Action Commission, the number of the Mayor's appointments is three, and the number of Blacks in those appointments is one.

With that, Your Honor, I would like to hand to you the original.

THE COURT: Thank you.

BY MR. MATTIONI:

Q Mr. Zecca, what is your position in the City government?

A I am deputy to the Mayor.

Q How long have you occupied or held that position?

A Since 1963.

Q What generally is your function as deputy to the Mayor?

A My general function is as his chief assistant.

Q Could you describe briefly what kind of things you would do in the normal course of the day?

A Well, in the normal course of the day I would take care of correspondence and see that it is directed in the proper way.

I would take care of calls from administration people to see that the information is channeled in the right [204] areas.

I would check our relationships in Washington with respect to legislation, with respect to federal programs.

I would do any—perhaps meet people in the absence of the Mayor and then report to him and generally serve as executive assistant.

Q Now, in connection with your duties as deputy to the Mayor, did you have occasion to undertake any activity with respect to the appointment of the 1971 Educational Nominating Panel?

A Yes, I did.

Q At whose direction did you undertake those activities?

A At the Mayor's directions.

Q That's Mayor Tate?

A Mayor Tate, yes.

Q In making the selections of members of the Educational Nominating Panel what criteria were used by the Mayor?

A The criteria that was used was that as outlined in the supplement, in the Educational Supplement to the Home Rule Charter.

Q Now, did you, in connection with the duties assigned to you by Mayor Tate, review past memberships in the Educational Nominating Panel?

A Yes. He asked me to prepare a list for him which I did, and I gave it to him.

[205] Q All right.

Now, when he asked you to prepare a list, was that a list of the previous nominating panels originally?

A No. He asked me to prepare a list of names for the new Panel, which meant reviewing the previous panel and updating it.

Q Now, how many members were appointed to the Educational Nominating Panel?

A Well, there are thirteen members on the Educational Nominating Panel. According to the supplement, of these nine members fall into specific classifications, that is, you operate under a number of restraints in making those appointments. You have to have the chief officer of specific organizations that fall in these nine categories.

Then there are four other appointees, which are at the Mayor's discretion, which do not fall into specified categories.

Now, in facing the categories, we use the list of the previous panel members. Where they could be reappointed in most cases they are reappointed.

Where there is a successor in office, in their office, we name the successor. This is pretty much routine. This is the main extent of what I do.

The other four were his own choice.

[206] Q And with respect to the specific people named as members of the Educational Nominating Panel, do you have with you any of your own notes you used in preparing that list?

A Yes, I have, in my briefcase.

Q Specifically, with reference to the Charter provisions in Section 12-206, would you tell me who was appointed under the category, (b)(1):

"A labor union council or other organization of unions of workers and employees organized and operated for the benefit of such workers and employees."

A That was Edward Toohey.

Q Now, why was Mr. Toohey appointed?

A Well, he is the head of the AFL-CIO in Philadelphia and it seemed as if this was the thought of the framers of that Home Rule Supplement that they meant.

He was a reappointment, incidentally.

Q Now, as far as you know, is there any other organization that would fit that general category?

A I don't believe there is another organization that would fit that category to the extent that the AFL-CIO Council operates. This is the broadest possible group.

Q Now, under Subpart (2):

"A council, chamber, or other organization established for the purpose of general improvement [207] and benefit of commerce and industry, . . ."

Who was appointed?

A The chief ranking officer at the Chamber, who in this case is Richard Herman, whose name was given to us as the member who could be appointed, because actually, the head of the Chamber is not a Philadelphian.

Q Is there any reason why the president of the Chamber of Commerce was named by the Mayor and you in making this selection?

A Well, the Chamber of Commerce—I think the wording of the Charter makes it almost implicit that it is referring to the Chamber of Commerce, referring to the use of the word "chamber."

I think that these restraints, the framers of that Home Rule Supplement practically did everything but dictate exactly who they wanted to serve in those nine categories.

Q Now, Subpart (3) calls for a "public School parent-teachers association."

Who was named to that position?

A The head of the Home and School Association. That is Mrs. Platt, who succeeded Sandy—oh—Featherman, the former head of the Home and School Association; and that's in the public schools, so that's pretty much explicit.

Still you could have appointed an individual [208] school, but we picked the entire system.

Q Mrs. Platt is head of the citywide parent-teachers association?

A Yes, yes.

Q Subpart (4) defines:

"A community organization of citizens established for the purpose of improvement of public education."

Who was named initially to that position?

A That was initially Raymond Denworth who was named because he was, or so we thought, head of the Philadelphia Committee—let me see—the Committee for Public Education in Philadelphia.

Q Did he ultimately assume the position on the Panel—

A No. There was a mixup there. A call had been made to—to Mr. Denworth's office—and a secretary had informed—this is what was told to me—had informed our people that Mr. Denworth was president, because this is the way the question was raised, "Is Mr. Denworth still president?" because that's the reason we appointed him.

Then it was brought out that he was no longer president and he wrote to Mayor Tate saying so and informing him that Mrs. Duckery was president, to reappoint Mrs. Duckery to take his place as the chief officer of the Citizens Committee [209] for Public Education in Philadelphia.

Q Subpart (5) of this section of the Charter provides:

"A federation, council, or other organization of non-partisan neighborhood or community associations."

Who was named under that subheading?

A Mrs. Anderson was named under that category. She was reappointed. She was appointed previously because she is the president of the Philadelphia Recreation Council.

Each recreation center throughout the City has such a neighborhood council, which gives neighborhood input to that particular center and their amalgamation had a set of officers of which she is president.

Q In other words, the council or organization she is the head of is some kind of a federated group of all these local organizations?

A Citywide, yes.

Q The sixth subheading indicates:

"A league, association, or other organization established for the purpose of improvement of human and inter-group relations."

Who was named to that position?

A Named to that position was Senator Freeman Hankins, as a life trustee of the National Association for the Advancement of [210] Colored People.

Q How was he decided upon?

A Well, in this case it was a reappointment because the organization would appear to fit that category.

Q Subpart (7) provides:

"A non-partisan committee, league, council, or other organization established for the purpose of improvement of governmental, political, social or economic conditions."

Who was named to fill that position?

A Lennox Moak, the Pennsylvania Economy League.

Q What organization is he associated with?

A The Pennsylvania Economy League.

Q What position does he have with the Pennsylvania Economy League?

A I believe it is executive director.

Q Part (8) provides:

"A degree-granting institution of higher education whose principal educational facilities are located within Philadelphia."

Who was appointed to that position?

A Father Tolan, president of St. Joseph's College.

He replaced Dr. Anderson, president of Temple University.

[211] Subpart (9) provides:

"A council, association, or other organization dedicated to community planning of health and welfare services or of the physical resources and environment of the City."

Who was appointed to fill that position?

A Mr. Charles Tyson as the ranking board member of the Greater Philadelphia Movement, because the co-chairmen resided outside of Philadelphia.

Q Now, is there, except for the appointment of Reverend Tolan, any reason why other people than those that were appointed were not appointed to the Panel under these eight categories?

A I don't follow you.

Q In other words, with respect to these appointments were there other organizations that could have fit under these various categories?

A I presume you could find some that would fit, surely.

Q Is there any reason why the organizations that were chosen were, in fact, chosen by the Mayor?

A Well, according to the Mayor's views these organizations were the most representative and who had the widest diversification of interests.

Q Now with respect to the remaining four appointments, how [212] were they made?

A They were selected by the Mayor himself.

Q What part, if any, did either the race or ethnic background of potential appointees to the Nominating Panel play in the selection process?

A To my knowledge, the specific ethnic—the specific racial part or aspect didn't enter into it outside of the classifications.

BY MR. WOLF:

Q I didn't hear that.

A Outside of the classifications, those nine classifications, spelled out classifications, but not particular race.

BY MR. MATTIONI:

Q Well, was the Mayor, to your knowledge, concerned with the racial composition of the Panel?

A The Mayor's concern for the racial composition of

this Panel is the same as his concern in others. He wants to make sure there is representation, although this doesn't extend to any degree so far as numerical representation.

Q Do you know why Levy Anderson was appointed to the Panel?

A He is the City Solicitor and the previous panel had the previous City Solicitor.

Q Is there any other reason why he was appointed, as far as you know?

[213] A Well, Mr. Anderson has a number of qualities. Outside of his specific duties as City Solicitor, he has been a long-time Philadelphian, he has worked other than in the field of law. He has been in industry, he put his son through public schools, he is a solid character, a solid individual who would lend, I believe, weight on this Panel.

MR. MATTIONI: Cross-examine.

CROSS-EXAMINATION

BY MR. WOLF:

Q Mr. Zecca, you said that you had been deputy to the Mayor since 1963.

What did you do before that?

A Before that I was press secretary to the Mayor and before that I was for seventeen years a reporter for International News Service.

Q Your testimony is that you were the person who presented to the Mayor the organizations that qualified under the nine subsections of the Charter?

A Yes, sir.

Q Along with names who would apparently represent those organizations?

A Yes, sir.

Q Did he make any changes in those?

A Not in the names that I gave him, no, sir.

[214] Q Did he make any changes in the organizations?

A No, sir—I am sorry, let me amend that.

The names that I have given, the degree-granting institution, I gave Dr. Anderson and he said well, he served last time, give it to another one, and he put Father Tolan in.

Q Did he suggest St. Joseph's?

A No, Father Tolan, yes.

Q He suggested specifically Father Tolan?

A That I can't recall whether it was specific or whether he suggested get another one and move it around.

He may have given me one or two; I just can't be specific.

It probably wound up with the Mayor in the end selecting Father Tolan, yes.

Q I see.

Did you give the Mayor any advice regarding the appointment of the four discretionary appointments?

A No, sir.

Q Did you remind him that he had these appointments to make?

A No, sir. He told me.

Q He knew that he had to make them?

A Oh, yes, yes.

Q Do you know whether anyone else gave him any advice with regard to this?

[215] A I don't know, sir.

Q What did he say to you regarding his responsibility in appointing these other four individuals?

A He didn't say anything about his responsibility. He said to me to put these people on the Panel. He told me when I got it all together, the four that he would appoint.

Q You testified, I think,—

A Oh, excuse me. The only other one, that is one that I did, I did mention to him Levy Anderson.

Q You testified in describing the composition of the

Panel that nine are representatives of organizations and that four are at the discretion of the Mayor; is that correct?

A Yes.

Q Is that your understanding of the City Charter?

A Yes.

Q I would like to show you Section 12-206(c) of the supplement and I would like you to read it.

THE COURT: What is that you are showing him, counsel?

MR. WOLF: This is a copy of Education Home Rule Charter. This is the section that I cited.

THE WITNESS: "In order to represent adequately the entire community, the four other members of the Educational Nominating Panel shall be appoint- [216] ed by the Mayor from the citizenry at large."

BY MR. WOLF:

Q Does that sound to you like discretion?

A Oh, yes.

MR. MATTIONI: Objection, sir.

I think Mr. Zecca has already testified that the Mayor made the four appointments.

The only conversation concerning those four was on the appointment of Levy Anderson, and with respect to any legal interpretation of this document that is a matter for the Court.

He is asking now for him to give his opinion as to what this means.

THE COURT: Frankly, I am going to let the answer stand and overrule your objection because I feel that in his testimony he, in effect, said that the four were in the discretion of the Mayor.

I don't see where there is any problem, so I note the objection, overrule it, and permit the answer to stand.

BY MR. WOLF:

Q Did you give the Mayor any advice regarding his responsibility to be sure that the community was adequately represented?

[217] A Oh, no. This is advice you don't have to give Mayor Tate.

Q Mr. Zecca, yes or no?

A No, I did not.

Q Thank you.

Mr. Zecca, you testified that in selecting the organizations to submit to Mayor Tate you looked to the past list and generally selected the same organizations?

A Yes.

Q You characterized this as pretty much routine?

A Yes.

Q Now, what happened in 1969 to disturb that routine? Did you apply the same reasoning with regard to the appointment of the Panel in 1969?

A Partly.

MR. MATTIONI: Objection.

THE WITNESS: Partly, I believe, but I don't know what you are referring to.

THE COURT: Mr. Zecca, you had better hold your answers when counsel for the City objects.

MR. MATTIONI: The objection, Your Honor, is that the composition of the Educational Nominating Panel appointed in May of 1971, as far as anything that occurred in 1969, I think, is totally irrelevant in this case.

THE COURT: I am going to permit the witness to [218] testify and we will rule on the relevancy at a later date and let your objection stand.

We will see whether it is relevant or not after we get the answer.

BY MR. WOLF:

Q Mr. Zecca, what responsibility did you have with regard to the appointment of the Educational Nominating Panel in 1969?

A I probably had some of the same responsibility which I exercised with this one, although I don't recall. I don't recall specifically whether I did, in fact, get the names together like I did this time.

I believe I got most of it done.

Q You testified, Mr. Zecca, that it was pretty much routine to reappoint past members of the Panel.

A I testified so far as this time went, and I think in previous cases it has been the same thing, to the best of my knowledge, yes.

Q Mr. Zecca, we have had testimony that in 1969 there were a number of changes—

MR. MATTIONI: Objection, sir.

There was no testimony in any of the defendants' case of that fact.

THE COURT: He may ask the question or not.

MR. MATTIONI: We have had evidence, you have to [219] ask this witness your question. He shouldn't be confronted with something which may or may not have been proven, Your Honor, and has nothing to do with this.

MR. WOLF: Your Honor, as far as being proven, it is stipulated that there were a number of changes made in 1969 in the organizations.

THE COURT: That was stipulated to?

MR. WOLF: Yes, sir.

THE COURT: We will note your objection.

This is a question, I think, Mr. Mattioni, where your objection is on the basis of relevancy.

MR. MATTIONI: I am saying, Your Honor, it is certainly beyond—

THE COURT: Anything that is within, we will just

say, the general ball park, I am going to let in, and we will pass on the relevancy of it later and note your objection.

MR. MATTIONI: This is certainly beyond the realm of direct examination, Your Honor. This witness testified to only one function and one duty and responsibility he has assigned to him by Mayor Tate.

THE COURT: You know, you are asking the Court to pass upon an objection to a question that counsel never completed. I don't have the question in front of me.

Would you complete your question?

[220] MR. WOLF: I think I had better start it over again.

THE COURT: Let's start the question over again. The witness would appreciate that.

BY MR. WOLF:

Q Mr. Zecca, it has been stipulated by counsel that in 1969 there were several changes in the designated organizations and I would like to ask you whether you recall those changes and whether you recall why they were made, particularly in view of the fact of your testimony that reappointments are pretty much routine.

MR. MATTIONI: If Your Honor please,—

THE COURT: We have had the question now.

MR. MATTIONI: If Your Honor please, the stipulation is not that there were changes or not changes.

The stipulation is to the fact of who was appointed, who was not, and so on.

THE COURT: The stipulation is in writing. What does it say?

MR. WOLF: The stipulation really sets forth the names and organizations of the members of the Nominating Panel.

It is perfectly clear there is no language that says

in 1967 under Subparagraph (6) of the Charter the organizational representation changed from the Urban League to the [221] National Conference of Christians and Jews, yet it is perfectly clear that that did occur.

THE COURT: Counsel, apparently Mr. Mattioni's objection is in connection with the qualifying phrase that "it was stipulated."

Ask your question without including the stipulation and I am sure Mr. Mattioni will continue his previous objection as to relevancy, but I don't want the witness misled as to what was stipulated or what wasn't, and I don't think it will have any other effect on the answer of the witness.

BY MR. WOLF:

Q Mr. Zecca, it has been stipulated that in 1967 the Federation of Churches was the organization that satisfied the selection under Subparagraph (5) and in 1969 the Citywide Recreation and Playground Advisory Council was selected to be the organization under Paragraph (5).

Similarly, in 1967 the Urban League was the organization under Paragraph (8) and in 1967 it was the National Conference of Christians and Jews.

Similarly, under Paragraph (7) in 1967 the organization was the League of Women Voters and in 1969 the Pennsylvania Economy League.

Similarly, under Section 9 it was the Philadelphia Housing Association in 1967, and in 1969 it was the Health [222] and Welfare Council.

Now can you enlighten us at all as to why these changes were made, and if they were made, how you can square that with your testimony that it was pretty much routine to reappoint the same people who served on previous panels?

MR. MATTIONI: If Your Honor please, he has now asked the witness in one question about four questions, and I think just for the sake of clarity this shouldn't be permitted.

I don't know what question now he is going to answer.

THE COURT: I think you understand.

MR. MATTIONI: I understand, certainly.

BY THE COURT:

Q Do you understand the question, Mr. Zecca? If you don't, say so, because you are the one who has to answer it.

A I think I get the thrust of it.

BY MR. WOLF:

Q Well, having given you the facts that are of record let us be specific and precise.

Do you recollect those changes in organization designations?

A I recall some of them, but I think—

Q Do you recall why they were made?

A No, but when I say, when I testified earlier, pretty rou- [223] tine, I am not saying it was an established practice simply to reappoint. I said it is pretty much a routine.

Now, there have been changes. There have been some changes. We changed from Temple University to St. Joseph's, for example.

There have been other changes from time to time. There could be any number of reasons. Sometimes just there's more than one group at a time that does something to bring them into representation.

But when I am talking about pretty much routine I am talking about a pattern that is followed, when the Mayor says get a list.

You get up a list, and basically it's the same, and specifically I am testifying between this year and the last Panel, and you will see that it is pretty much a matter of the same people.

Q Did he tell you to select the same ones each year?

A No.

Q Did he tell you the time before not to select the same organizations?

A I don't recall what he told me the time before; probably just the time to make the appointments, get up a list.

Q Mr. Zecca, do you recall the controversy over the appointment of a successor to Mr. Goldman on the School Board?

[224] A No, I don't.

Q That was in 1968, in May 1968, when the Mayor was publicly criticized and made a public statement that was testified to that he was not going to appoint any additional Negroes to the Board of Education.

Do you recall that statement?

A No, I don't. I don't remember the Mayor ever saying that he was not going to appoint any additional anything to the Board of Education.

Was that—well,—

Q If that statement were reported in the newspapers would the Mayor have taken steps to deny it or would you have taken steps?

MR. MATTIONI: Objection, sir.

BY MR. WOLF:

Q Steps to see that that erroneous impression was corrected?

THE COURT: There is an objection to that question.

What is the basis of your objection?

MR. MATTIONI: If Your Honor please, now we are getting into the realm of pure speculation. The witness has just testified that he has no knowledge of any such statement ever being made by Mayor Tate or being attributed to Mayor Tate, so why should he sit here and try to decide what would [225] have happened if he knew about it or if the Mayor knew about it?

THE COURT: I will sustain your objection.

It is rather technical, but it calls for speculation.

MR. MATTIONI: Of course, the other ground, Your Honor, is that he is talking about the Board of Education and here at issue is the Educational Nominating Panel.

BY MR. WOLF:

Q Mr. Zecca, you were, I believe, working for the Mayor in your present position in 1964 and 1965; is that correct?

A Yes.

Q That, therefore, was during the time of the operation of the Educational Home Rule Charter Commission; is that correct?

A That's correct; yes.

Q Were you aware of the operations of the Commission?

A I was aware of them. I knew they were going on but I wasn't directly involved with them at that time.

Q In attempting to or in selecting the organizations that were to send a representative to the Educational Nominating Panel did you at any time consult with any members of the Educational Home Rule Charter Commission to discuss with them what their intent might have been in their drafting of the Charter?

MR. MATTIONI: Objection.

[226] I think again we are just going all over the lot, Your Honor.

This witness has testified as to what procedure he followed in carrying out his assignment from Mayor Tate.

MR. WOLF: Your Honor, this witness testified about the selection of the AFL-CIO—that it was the thought of the framers of the Charter—and I would like to explore with him just a little bit what he knows about it and what he thought the thought of the framers of the Charter was.

THE COURT: I am going to overrule the objection because this is cross-examination, Mr. Mattioni, and the witness in his direct testimony expressed many conclusions as to the interpretation of that Charter.

MR. MATTIONI: Your Honor, I object to your characterization of what he said. He said no such thing.

All he did was take the Charter and what it seemed to mean to him.

THE COURT: I am going to overrule your objection because I recall the witness specifically having testified in connection with the AFL-CIO that that was probably the intent, I recall he said, as far as he was concerned, of the framers.

MR. MATTIONI: That's correct, Your Honor, as far as he was concerned.

[227] THE COURT: Right.

That's all we want to find out—what he knows.

Proceed with the witness.

You had better read the question back, Mr. Lennox, so everybody will have it as it is asked.

(The reporter read the pending question as follows:

"Q In attempting to or in selecting the organizations that were to send a representative to the Educa-

tional Nominating Panel did you at any time consult with any members of the Educational Home Rule Charter Commission to discuss with them what their intent might have been in their drafting of the Charter?")

THE WITNESS: No, I did not.

BY MR. WOLF:

Q Did you at any time review any of what we will characterize as the legislative history of the drafting of the Charter?

A Now are you speaking in connection with this particular Panel?

Q Well, at any time, at any time.

A At any time?

Q Did you ever, for example, look at minutes of their meetings?

[228] A No, I did not.

Q Did you at any time look at statements that various members might have made?

A No, I did not, but let's say back when the Educational Nominating Panel—when the Charter Commission was formed, I was not handling this work at that time.

The job of administration, George Forde, was the one who did the original background work on this, came up with the original listings, some of which we are still using, and we have changed others.

Q I see.

So your understanding of the AFL-CIO as the organization thought of as appropriate by the framers is based only on your supposition?

A This is all that I said, yes.

Q Mr. Zecca, I have been given and I was told that there will be introduced into testimony a good bit of material by Mr. Mattioni regarding the process of drafting the Educational Home Rule Charter and I would like to show you some of this and ask you about it.

MR. WOLF: If Your Honor will indulge me, there is a fairly substantial amount of material here.

THE COURT: Counsel, the Court would like to make a statement for the record that in order to expedite things I [229] know that Mr. Mattioni had and he may have been right in some instances—you may be right in none and I may be right in none, but any time you have an objection as to relevancy of this testimony just make an objection on the ground of relevancy and the Court will overrule that objection and we will take it into account when we make our findings of fact.

As you know, we don't have a jury here and I am not going to permit any fishing expeditions or anything like that.

I may, at one of these junctures, say that you are absolutely right at that point, but it won't be necessary for you to go into it.

We will note this on the record.

MR. MATTIONI: Fine, Your Honor.

THE COURT: The same thing, incidentally, is going to apply to you, Mr. Wolf.

MR. WOLF: Yes. Thank you, Your Honor.

BY MR. WOLF:

Q Mr. Zecca, is it your understanding of the Educational Home Rule Charter that the framers intended to designate specific organizations that they had in mind?

A Not specific organizations, but specific classifications.

Q Well, Mr. Zecca, how is that consistent with your testimony regarding, for example, the AFL-CIO, that that was the [230] thought of the framers of the Charter and that there is no organization that would fit that to the extent that the AFL-CIO could?

You testified that reappointment was pretty much routine.

A Yes.

Q Where organizations were already appointed, you generally continued them.

MR. MATTIONI: Objection sir.

Now, this is not a relevancy objection at all. This is a distortion of the testimony.

If he is going to start characterizing the testimony of the witness I think he should do it in terms of what he specifically said; otherwise just ask questions.

Now he uses the terminology "routine," but I think to characterize it as saying we reappoint as a matter of routine is inappropriate because that is not what he testified to.

MR. WOLF: I think that if we review the testimony you will see that on numerous occasions Mr. Zecca said that this was a reappointment.

That is the only way he explained Mr. Hankins, that this was a reappointment.

Levy Anderson was a reappointment. We can call [231] it the citizens' committee because they had been on before. This was a reappointment of the organization; the same thing with the Chamber of Commerce.

MR. MATTIONI: If Your Honor please,—

THE COURT: Mr. Mattioni's objection to your, in effect, putting on the record the fact that Mr. Zecca said it was routine—

MR. MATTIONI: Your Honor, if he wants to argue his case let's stop the testimony and we will argue the case.

If he wants to cross-examine let him cross-examine.

THE COURT: The only thing that I am concerned with is whether or not he used the word "routine."

Do you recall?

THE WITNESS: I used the word "routine," but—

THE COURT: That's all I asked.

We don't want to misstate your testimony.

Can you pick another word?

MR. MATTIONI: There is no question that he used the word "routine." I am only talking about characterizations by counsel, which are intentionally made to mislead the Court because he is talking now about routine in a different context than the witness used it.

THE COURT: Counsel will rephrase his question, [232] and your objection is sustained.

MR. WOLF: I shall, of course.

THE COURT: By the way, this is a short question. Instead of going back and reading that testimony, ask your question again.

BY MR. WOLF:

Q Mr. Zecca, you testified on several occasions on direct examination that you made reappointments of individuals and in some cases reappointment of organizations.

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q Why did you do that?

A Because the organizations stood the test of time, so to speak. This was the Panel that proceeded in the previous selection of Board members and apparently done its job properly and there hadn't been widespread objection to the Panel before or to the organizations.

Q And you regard that as the appropriate criterion?

A At present I do, yes.

Q Mr. Zecca, let me read to you two statements by Mr. Albert J. Nesbitt, who was chairman of the Educational Home Rule Charter Commission, and one letter from him to Mr. Dilworth.

MR. MATTIONI: If Your Honor please, I don't ob- [232] ject to counsel reading from these. I am

going to introduce all of these documents into the record, but I maintain prematurely, however, he is going to burden this record with a lot of irrelevancies in the sense that the witness has already testified now that he hasn't gone into these, into the so-called legislative history of the Charter Commission writing the Home Rule Charter.

Now he is going to be confronted with an instant analysis here, "Tell me what this means."

THE COURT: Mr. Mattioni, you have me in the position, with many of your objections, that you object before I hear the question, and it is very, very difficult to rule on a question I haven't heard.

Now let me hear the question.

I know you said you were going to read, Mr. Wolf, from two letters. I haven't seen the letters; I hope they are not long.

MR. WOLF: No, sir.

THE COURT: If you and counsel can agree that you are only going to read a portion or a short part of it, it would help the record.

MR. WOLF: I am only going to read a portion of it relevant to this question that we are discussing now.

THE COURT: What are you going to ask the wit-
[234] ness so we will have the question?

MR. WOLF: Then I am going to ask him whether his testimony as to how he selected the organizations to recommend to the Mayor is consistent with the position expressed by the chairman of the Home Rule Charter Commission.

MR. MATTIONI: This is what I assumed he was going to do, Your Honor; and, of course, I think my objection now speaks for itself.

THE COURT: And your objection is based on what?

MR. MATTIONI: On the basis here that he is

going to now ask Mr. Zecca to interpret his own conduct and say whether it is consistent.

In order to do that he's got to make an instant interpretation of what these documents really say and then, of course, there is the question whether what is in these letters is really representative of the final result of the Charter Commission's recommendations to the people and adopted in the form of the present Home Rule Charter Supplement.

THE COURT: Again we note your objection and we will proceed.

BY MR. WOLF:

Q Mr. Zecca, in Mr. Nesbitt's statement of December 2, 1964, he said regarding the Educational Panel, the Commission believes that it must be constituted and composed in a manner [235] that safeguards the Mayor's basic accountability, that produces maximum representativeness of the entire community, and that assures responsiveness to the dynamics of educational progress and community change and development of Philadelphia.

In a letter of March 5, 1965, from Mr. Nesbitt to Mr. Dilworth he again talks about the Panel and he describes that the Panel should be constituted in a manner which produces maximum representativeness of the entire community and assures responsiveness and flexibility relating to community change over the years the Charter Supplement would be in effect.

Further on he says by special categories rather than particular organizations, the Commission recognizes the reality of change in community and civic organizations over a long period of time.

That's the end of the quote. Now, Mr. Zecca, in view of these statements by Mr. Nesbitt, how do you regard your rather routine appointment of the same organizations that sat in 1969?

THE COURT: Counsel has an objection to the word "routine," so just strike "routine" and answer the question.

MR. MATTIONI: Not only "routine," but my objection is to this whole line of questioning, not merely on the ground of relevancy.

I think I said before there is no sense repeat-
[236] ing it.

MR. WOLF: Your Honor, with regard to routine, Mr. Zecca used the word.

THE WITNESS: Can I describe the word for you?

MR. WOLF: Please do.

THE WITNESS: I want to make it very, very clear that I used the word "routine" procedurally.

I do not use the word "routine" to diminish in any way, shape, or form the importance of the assignment of the Panel.

BY MR. WOLF:

Q We don't suggest that you do.

THE WITNESS: Or the importance of the Panel.

MR. MATTIONI: I object, sir.

Counsel has interrupted the witness twice now, and I think he ought to permit him to give his answer.

THE COURT: Counsel, don't interrupt the witness.

I just want the record to show that this witness, I think, is well able to take care of himself in these proceedings.

Let's just proceed and let him answer.

If you have more, answer it.

THE WITNESS: When I used the words "pretty much routine," I mean that I didn't have to, because of the prior [237] precedent, because of the prior panels, because of the prior activity, work that had been done not by me, but this wasn't the first Panel to be appointed. I assure you that on the original

panels there must have been a lot more work that went into it, but based on all of this, what I had to do was take the organizations that already had been represented and already had done well as witnessed by the product of their endeavors, that is, the members of the Board and Mr. Dilworth, that Mr. Nesbitt wrote to as a member of the Board.

BY MR. WOLF:

Q That was before the composition—

A He being a member of the Board now; that's right, and this is what I meant by "routine," but not to diminish in any way, shape, or form the importance.

Q Mr. Zecca, that's exactly what I thought you meant by "routine."

A It didn't sound that way to me.

Q I am sorry, that's exactly what I thought you meant and the question that I asked you, having read to you the one statement by Mr. Nesbitt in the one letter, is whether Mr. Nesbitt's view in any event—the weight of his view is for the Court—regarding the responsiveness of the membership on the Panel to community changes played at all a part in your consideration.

A I think that the results of the selection show that Mr. [238] Nesbitt's intent has been borne out. You take the members of this Panel and take them one by one and see what they stand for, see who they are and see what they represent, I think that it represents a great diversification of interest in the community, I think it represents the thought, the knowledge, the ability, and the motivation to do their jobs correctly.

Q I am not suggesting in any way that it doesn't. I am asking you only a very narrow question, and that is whether it is a recognition of the reality of change in community and civic organizations over a long period of time.

A Well, what do you think that means, these words?

I think that it is flexible enough that in the greater context of that meaning I think that this Panel represents it. I think it is representative of the people in Philadelphia.

Q I am not asking you that.

My question was whether you gave consideration in selecting the organizations that were to be represented on the Panel to the idea that the mechanism of selecting this Panel was to guarantee responsiveness to community changes over a period of time.

A I think that's inherent in these organizations.

Q Now, in what way is the selection of the same organizations in 1971 that sat in 1969 responsive to community change? [239] Now, I am not asking you about the merits of the organizations; I am asking you about selecting the same organization. I am asking you what went through your mind when you decided to select the same organizations.

A Can you be specific?

Q Well, you selected the same organizations, for example, the AFL-CIO. You selected that each time.

A Right. Now, the AFL-CIO is certainly responsive to the times. The organization, the amalgamation of all these labor unions and boards, is certainly responsible to the times, as far as labor goes.

The Chamber of Commerce of Greater Philadelphia certainly must be responsive to the times in the management and business life of the City, which is what the Charter asked for him.

The Home and School Association is a living, changing organization, and so with the rest of them.

Q Mr. Zecca, do you know the racial composition of the Philadelphia schools?

A Very generally. I imagine it may be 60 or 65 percent Black.

Q Do you know what the racial composition was when the Educational Home Rule Charter was enacted?

A I would think it was less at that time.

[240] Would you still think that responsiveness to change in the community would suggest that there should be more Black representatives in 1971 than in 1965?

A On the Educational Nominating Panel?

Q Yes.

A Not necessarily.

Q Mr. Zecca, you testified that Mr. Herman's name was given to you as a man who could be appointed from the Chamber of Commerce.

Who gave that name to you?

A Mrs. Forman.

Q Mrs. Forman gave it to you?

A The secretary of the Administrative Board.

Q Do you know how she found out?

A I had asked her to get someone from—the top person from the Chamber of Commerece and she called.

Q Exactly what did you say to her?

A I said, "We need somebody from the Chamber of Commerce to fill this category."

John Bracken is no longer the president or I would have appointed him. Mr. Ballengee succeeded him, so we needed another ranking officer who lives in Philadelphia.

I asked her to check with the Chamber and find out, and she came back with that answer.

[241] Mr. Zecca, do you recall just what the Charter says about representatives from these organizations?

A It says that they have to be Philadelphians and the next higher-ranking member—

Q The next higher-ranking what?

A Member, or something member of the organization.

Q Would you read to me Section 12-206(b). You have it in front of you.

A Yes.

Q All right.

A "Nine members of the Educational Nominating Panel shall be the highest-ranking officers of City-wide

organizations or institutions, which are, respectively:" . . .

Q All right.

Now will you please read Subsection (d).

A "in the event no organization as described in one of the Clauses (1) through (9) of Subsection (b) exists within the City, or in the event there is no such organization, any one of whose officers is a registered voter of the City, the Mayor shall appoint the highest-ranking officer who is a registered voter of the City from another organization or institution which qualifies under another [242] clause of the subsection."

Q Now, did you mean you are attempting to say that that authorizes the Mayor to appoint a high-ranking member of any one of these organizations?

A I don't follow you.

Q Are you able to distinguish between a member of the Board of Directors of an organization and an officer of the organization?

A Do you mean am I able to?

Q Yes. Is that a distinction in your mind?

A Yes, it is a distinction, of course.

Q There is a difference between an officer and a member of the Board of Directors?

A No. Sometimes you are an officer and a member of the Board of Directors.

Q Certainly, you can be, but there is a distinction between someone who is an officer and someone who is only a member of the Board of Directors?

A A distinction other than title?

Q Yes.

A That's right.

Q Now, what does the Charter say you are to to get?

A The highest-ranking officer.

Q All right.

[243] Now, is Mr. Herman an officer of the Greater Philadelphia Chamber of Commerce?

A I think he is a member of the Board of Directors.

Q All right.

Now, what does the Charter say you are supposed to do when you can not get an officer?

A He is an officer when he is a member of the Board of Directors.

Q Do you mean every member of the Board of Directors is an officer?

A That's an officer. It's a matter of how I gain—what is the officer?

Q Yes, that's the question, isn't it?

MR. MATTIONI: Yes. That's argument for the Court, Your Honor.

Again I think we are needlessly wasting the time of the Court, especially in view of the fact that you have enjoined me to complete my defense in one day.

THE COURT: Mr. Wolf, don't close in on Mr. Zecca when you are asking the questions.

MR. WOLF: I am sorry.

THE COURT: Try to keep back near the counsel table. I won't require you to remain seated because of the poor acoustics here, but—

[244] BY MR. WOLF:

Q Mr. Zecca, do you know whether Mr. Herman is a member of the Executive Committee of the Philadelphia Chamber of Commerce?

A No, I don't.

Q Mr. Zecca, regarding Freeman Hankins, you testified that first of all he was a reappointment?

A Yes.

Q The stipulation filed by counsel in this case states that the representative under 12-206(b)(6) in 1969 was Joseph P. McLaughlin, a member of the National Conference of Christians and Jews.

Now, Mr. Hankins was on the panel the previous time?

A Yes.

Q He was not, according to the stipulation, representing the NAACP.

A I think that that stipulation may be in error because I think that Mr. McLaughlin was the Mayor's choice. He also was representing the NAACP.

Q Fine. I am very happy to have that straightened out.

What position does Mr. Hankins hold in the NAACP?

A It is my understanding that he is a life trustee.

[245] Q Who told you that?

A Again, there is Mrs. Forman, who is the secretary of the Administrative Board and I obtained the information from her.

Q Did you inquire as to the availability of the president of the organization?

A No, I did not.

Q How come?

A I asked her is Mr. Hankins still the representative as the top officer and she called back with the report that he was.

Q Mr. Zecca, do you know anything about the organization of the NAACP in Philadelphia?

A No, sir.

Q You do not?

A Other than generally what is the NAACP.

Q You know what it is?

A Oh, sure.

Q But you don't know anything about its organization?

A Nothing particular, nothing specific.

Q Do you know what the title of the organization is?

A National Association for the Advancement of the Colored People.

Q Is it the Philadelphia chapter or what?

A I understand it's the Philadelphia chapter.

Q Did it at all surprise you that a life trustee was the [246] highest-ranking officer who lived in Philadelphia from the Philadelphia chapter of the NAACP?

A No.

Q It didn't?

A No, sir.

Q Where did you think the officers lived?

A It is not a matter of where I thought the officers lived. This is a matter of checking to see whether or not Senator Hankins fell into this category and was still eligible to be appointed, and word came back to me that he was.

Q Whom did you ask to do this for you?

A I said Mrs. Forman.

Q And exactly what did you say to her?

A I said, to the best of my knowledge, "Is Senator Hankins qualified for the appointment for the NAACP?"

Q Did you advise her what the Charter said?

A No. She knows it. It's her job to know what the Charter requires.

THE COURT: Let the Court interrupt.

BY THE COURT:

Q Who is Mrs. Forman?

A Mrs. Forman is secretary of the Administrative Board, who take care of appointments to boards, commissions,—

Q She is an employee of the City of Philadelphia?

[247] A Oh, yes, yes.

THE COURT: I just wanted her identified.

BY MR. WOLF:

Q What about Mr. Moak? Is he a director or an officer of an organization?

A Surely.

Q Who isn't an officer of an organization?

A One that doesn't have a title, I would presume.

Q What do you think the purpose was in the Charter of requiring that the representative of the organization be the highest-ranking officer thereof?

A To make sure that you get a proper spokesman and one who properly reflects the attitudes and aims of the organization in question.

Q And you think the selection of anyone, of someone who has not been elected an officer by the Board, is appropriate to do that?

A Will you repeat that, please?

Q And you think that the selection of someone who has not been elected by the Board of Directors or the Board of Trustees of an organization is an appropriate person to represent the organization?

A I don't know that Mr. Moak wasn't elected by the Board of Directors or the Board of Trustees.

[248] Q But you don't know that he was?

A I don't know that he was.

Q I take it with respect to the Greater Philadelphia Movement your testimony would be that since Mr. Tyson is a Board member he is an officer of the organization?

A I checked with Mr. Rafsky, who is the Executive Director of the GPM and he came back with the name of Mr. Tyson.

Q As the highest-ranking member of the organization?

A That's right.

Q What did you ask Mr. Rafsky to do?

A I asked him for the highest—well, I knew that the president— there are three co-chairmen, none of whom live in Philadelphia, and I called Mr. Rafsky and I said who under the Charter would qualify as the top member of the GPM to serve on the Board, to serve on the Nominating Panel; and he came back with the name of Charles Tyson.

THE COURT: Counsel, are you getting near the conclusion?

I am only thinking about this Court having a recess.

MR. WOLF: Yes, sir. I am on my last points from his testimony, Your Honor.

BY MR. WOLF:

Q Mr. Zecca, could you tell me the name of any other orga- [249] nization that would satisfy the definition described in Subsection (1) of 12-206(b) that you have in front of you?

A Not in the context, no, I couldn't.

Q All right.

What about No. (2)?

A You could have a local—

MR. MATTIONI: If Your Honor please, I object to the question not merely on the ground of relevancy, but because Mr. Zecca has already indicated that there may well be other organizations that may qualify under various categories.

I don't think that's at all relevant. The only issue is whether or not the ones that were utilized were appropriate. The fact that there may be others I don't think is an issue at all.

THE COURT: Has the witness testified that there may be other organizations that could have qualified?

MR. WOLF: My recollection does not extend to that, Your Honor.

THE WITNESS: Yes.

MR. WOLF: My recollection is that he testified with regard to the first one that the AFL-CIO was the most appropriate.

THE COURT: I recall that specifically.

MR. WOLF: But I would just like to find out.

[250] After all, he is the person responsible and I would like to find out whether he knows of any other nizations that would satisfy these qualifications.

MR. MATTIONI: If Your Honor please, of course, he is not the person responsible. The Mayor of the City of Philadelphia is.

He was performing certain activities which he testified to at great length at the direction of the Mayor.

THE COURT: I will note your objection and permit him to answer on the basis that he is the man that apparently was preparing the list for submission to the Mayor.

If you will generalize that question I think this cross-examination can be cut short. We are going entirely too long, I think.

MR. WOLF: I think this will surely be the longest cross-examination, Your Honor. This is critical, as you so well said.

THE COURT: I don't mean the longest one on record.

MR. WOLF: I surely hope not.

THE WITNESS: I might say that you have the Joint Building Trades Council, for example, but that's one specific area. The AFL-CIO is a joint council.

[251] BY MR. WOLF:

Q I can recognize—

A The same with the Chamber of Commerce.

Q Excuse me.

A The same way with the Chamber of Commerce.

Q Do you mean that there is no other citywide organization which is a comparable chamber or other organization able to stand for the general improvement and benefit of commerce and industry?

A No, there is not. I would say not in the context with the Greater Philadelphia Chamber of Commerce.

Q What do you mean "in the context"?

A Well, not to the scope. If somebody asks you who represents management and industry in the Philadelphia area, what group, wouldn't you automatically say the Greater Philadelphia Chamber of Commerce?

Q If I were—

THE COURT: Counsel, you don't have to answer the question.

THE WITNESS: I am sorry.

BY MR. WOLF:

Q I think the point that I am trying to get to, Mr. Zecca, is whether you know of any other organizations that would satisfy these criteria.

[252] A Not directly. There may be others. Oh, there is the Philadelphia Industrial Development Corporation, who is in industry. There is HUD, the Port Development Corporation, which is commerce, but generally aligned to the port.

There is a Northeast Chamber of Commerce.

Q Is that citywide?

A I am sorry. That's not citywide, but there are those two.

Q What about a community organization of citizens established for the purpose of the improvement of public education?

Do you know any other organizations, such as the Committee on Public Education in Philadelphia?

A Yes, there are a number of them.

Q Citywide organizations? Can you name them?

A Not offhand, but I have a listing of some of them.

In this case, the Citizens Committee on Public Education was chosen, too.

You see, as much as possible, we try to stay with what we had that was tried and proven and precedent, because as soon as you do make a change, then somebody comes

up and says they make a change for a purpose to get so-and-so in.

Whereas, if you try to do it the way that you have done it all along, you can minimize some of this.

Q All right.

Mr. Zecca, do you think there should be a Black [253] in the Mayor's cabinet?

MR. MATTIONI: Objection, Your Honor.

THE COURT: I will sustain that objection.

I don't think that's relevant to these proceedings. These proceedings, as I understand it, apply only to the Nominating Panel.

Is that right, Mr. Wolf?

MR. WOLF: Yes, sir.

BY MR. WOLF:

Q Mr. Zecca, would it have occurred to you to recommend to the Mayor the appointment of a panel consisting of eleven Blacks and two Whites?

MR. MATTIONI: Objection sir.

THE COURT: I will overrule that objection. I will pass on the relevancy later.

Proceed.

THE WITNESS: Let me put it this way:

First of all, let's confine ourselves to the nine in the classification.

It would have occurred to me to recommend nine Blacks to the Mayor if nine Blacks were representative of these classifications.

BY MR. WOLF:

Q Yes.

[254] A If there were nine Whites that represent the nine classifications, there would have been nine Whites.

Q Did you look for nine Blacks to represent these classifications?

A No, I didn't look for nine Blacks, nor did I look for nine Whites.

I looked for nine people that would show the diversity of these qualifications. I don't feel that you have to be Black to think Black, no more than being Black to take up this four.

I don't think that the color was specified in the Charter and I think that the only place that it does come out is in the intergroup classifications, which recognize that aspect.

But rather than color I think that these classifications represent diversification of the utmost interests and motivations.

Q What do you think the effect on the public would have been of appointing all nine Blacks from those organizations?

MR. MATTIONI: I object, Your Honor.

I think we are getting out of hand.

THE COURT: I will sustain that.

We are getting a little speculative now and I don't see where that's relevant.

[255] BY MR. WOLF:

Q Were you concerned at all on the effect on the Black community of those eleven Whites and two Blacks to the Panel or twelve Whites and one Black to the Panel?

MR. MATTIONI: Objection, sir.

Again—

THE COURT: I will permit him to answer that question. I will note your objection.

MR. WOLF: Let me rephrase it because you are only responsible for nine.

BY MR. WOLF:

Q Were you at all concerned about the effect on the Black community of having eight of the nine organizational representatives White?

A No. I was concerned because of the fact that they weren't Black doesn't mean that they were not representative or that they couldn't be adequate spokesmen for them.

Q Let me ask you this—if you were Black, how would you feel about it?

A Well, they say you don't know what it is really to be Black unless you are Black.

I don't know, therefore, how I would feel about it. I think that if I were a Black, a member of the Black group, that was eligible and should have been elected or should [256] have been selected and was not, I would feel bad.

Q Do you think that there are no Black groups that meet the definitions of the nine organizations?

A Well, rather than think whether there are no Black groups or not, think of which of those groups doesn't stand the test and which of these groups that are in here would you want to disregard in order to select another Black group.

It is not a matter of cutting somebody out, it's how many can you fit in.

I am not saying to you legal language or legal interpretations or what the law is or what not, but stitting where I sit, sitting where I sit close to the Mayor's office, sitting where I sit in government and watching government change as it has done in the past ten years, you have to do what you think is right. Your motivation is in the right direction.

Sure, we are aware of the great surge of the Black community in the last decade, so much more than in the previous decade.

I came into the City government back in '58, so I went through the sixties, which were quite turbulent, and I have seen the advances that especially we have done in Philadelphia, and I feel certain that we have come so far, a long way, not only as represented in the Panel, in the selection of [257] the Board of Education, in our attitudes to the

Black community, and the Black community's attitude to the responsiveness of the City government, if there is such a thing as the Black community.

There are so many Black communities in Philadelphia and it's the idea of doing it right. You could have had, as you said, eleven members, eleven Blacks, and you probably could come up with the names of eleven Blacks, none of whom will be acceptable in what men consider the Black community.

I think that we have done a tremendous job with Mayor Tate.

Q Why then has the number of Blacks on the Nominating Panel declined since 1965?

A How much has it declined by? We have two. How many did we have?

Q We didn't have very many to start with.

A How many did we have in 1965? I don't know, but it could be the classification.

MR. WOLF: No further questions.

REDIRECT EXAMINATION

BY MR. MATTIONI:

Q Mr. Zecca, you were asked whether or not you advised Mayor Tate of his responsibility with respect to the appointment of the Nominating Panel and I think the context was with respect [258] to responsiveness to the racial composition of the City; and you answered that you did not give him any advice.

You started to explain why not. Would you indicate why you did not?

A Well, at that time, I said you never have to talk to the Mayor about that. Mayor Tate is a political person from what I guess you would call the old school of politics, the old breed.

Whenever they do anything, the old breed, you look

at the qualifications, you look at diversification, you look at religion to make sure that wherever possible you have this broadest representation in the background.

This is not only the representation but diversification and the fact that we were touching all bases and you make sure that such a representative is an adequate spokesman, so this is something, a comparatively new business. You don't have to tell an old pro like Mayor Tate.

MR. MATTIONI: Thank you.

No further questions.

MR. WOLF: No questions.

Thank you very much.

Oh, I am sorry, Your Honor. May I ask one additional question?

I sent out for a piece of paper and it came in. Will you indulge me?

[259] THE COURT: And I will explain to Mr. Zecca that lawyers always think of one more question.

MR. WOLF: I am going to ask him—

MR. MATTIONI: May I see that paper, please?

MR. WOLF: Yes, surely.

THE COURT: As soon as the witness answers this one question we are going to take a ten-minute break.

RECROSS-EXAMINATION

BY MR. WOLF:

Q Mr. Zecca, we were discussing earlier a statement by Mayor Tate in 1969 that he would not appoint any additional Negroes to the School Board and you said you didn't recall that statement.

A I said I don't think that he made such a statement.

Q Well, all right.

May I show you a very bad copy of a page of the Philadelphia Inquirer, Saturday, May 3, 1969, and the article

says he indicated, referring to the Mayor, he would not appoint another Negro to the Board because the Negro community has good representation in the two Negroes now serving on the Board.

Do you recall that article?

MR. MATTIONI: Objection, sir.

Even the question of recalling the article I think is objectionable.

[260] Reading what is stated in there is obviously hearsay, if nothing else. Here is a newspaper article where the source is not identified, of somebody who says that Mayor Tate said "X."

THE COURT: Do you mean you can't believe everything you read in the newspaper?

MR. MATTIONI: If you read some of the writeups concerning this particular case, I think that's quite true.

MR. WOLF: The article further on states the source.

THE COURT: Wait a minute.

We have an objection to the question. What is the question again? Do you recall that article?

MR. WOLF: Do you recall—

THE COURT: This is a question of relevancy here but I am going to permit the witness to answer and note your objection.

The question is do you recall the article.

THE WITNESS: I don't recall the article specifically but it doesn't say he is not going to name another member.

It said that he indicated that he wouldn't name another member; and this is, of course, the reporter's version of this, but the quote said the Negro community has good rep- [261] resentation in the two Negroes now serving on the Board.

They may have asked him whether he was going

to appoint any more Negroes to the Board and he said the Negro community has good representation on the Board as it is; just like it has excellent representation right in this story.

BY MR. WOLF:

Q You don't recall, however, this having happened?

A No.

MR. WOLF: No other questions.

THE COURT: Thank you very much.

THE COURT: We will have a ten-minute recess now. We will be back promptly at 11:15 by that clock.

(A recess was had.)

THE COURT: All right, Mr. Mattioni, your next witness, please.

MR. MATTIONI: Mr. Johanson, please.

MR. WOLF: Your Honor, may I inquire whether Mr. Mattioni is going to run through the whole Panel before he calls Mr. Vagasky?

MR. MATTIONI: It was not my intention.

THE COURT: I didn't hear that. I would love . . .

* * *

[333] Q Did you take into consideration such factors as race, religion, ethnic background or social background, or sex in your own consideration of possible appointees?

A Absolutely no, but my first three choices were three blacks.

Q In your opinion, having served on the Educational Nominating Panel, do you feel that the members of the panel went about their work in a fair and impartial manner?

A Yes, having been on the Nominating Panel since its inception, I would say that this panel rates as high as any of the other previous panels to conduct itself in an orderly fashion and a very businesslike fashion; and I'd have to say nothing but the very highest as far as the conduct and performance of this panel are concerned.

MR. MATTIONI: Cross-examine.
MR. WOLF: No questions.
THE COURT: Thank you very much, Mr. Toohey.

THE COURT: All right. The next witness.
MR. MATTIONI: Mr. Farmer, please.

CLARENCE FARMER, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MATTIONI:

[334] Q Mr. Farmer, what is your position with the City of Philadelphia?

A I am chairman of the Philadelphia Commission on Human Relations.

Q How long have you held that position?

A Well, I was the executive director for two years and I have been chairman for two.

Q For two?

A Two years, yes.

Q Before you were connected with the Philadelphia Commission on Human Relations were you active in community organizations?

A Why, yes. Prior to that I was president of the Greater Philadelphia Enterprise Development Corporation.

I have been actively involved in the business community as president of the Farmer Press, Incorporated, which is a printing business; and I have been actively involved in many community organizations, yes.

Q In your position as first executive director and then chairman of the Philadelphia Commission on Human Relations and in your other community work, have you had occasion to come in contact with various groups and organizations within the City of Philadelphia?

A Yes, I have.

Q Have you had contact with Black or predominantly Black [335] organizations?

A Yes. The work of the Commission brings us in contact with many social, civic, and community organizations, both Black and White; and we work throughout the whole City and naturally, in contact with these organizations and we get to know them, get to know the people who run them, get to know who runs them, and what the nature of their work is.

Q Sir, are you familiar also with the Educational Home Rule Supplement which was adopted in 1965?

A I assume some familiarity with it, yes.

Q Now with respect to Section 12-206, which provides for the Educational Nominating Panel, there has been testimony with respect to certain Black or predominantly Black organizations as suggested alternatives to those actually used by the Mayor.

MR. WOLF: I would like to object to that characterization of them.

THE COURT: State the basis of your objection.

MR. WOLF: The basis of it, sir, is "suggested". They were simply possible alternatives.

THE COURT: Revise the question to include your language.

MR. MATTIONI: We will assume the question has been changed. The question has been so amended. Now, if the witness understands it he can answer it.

[336] BY MR. MATTIONI:

Q With respect to the organizations which were identified, I want to ask you some questions under each of the categories.

Section 12-206(b) provides for representation on the panel of,

> "A labor union council or other organization of unions of workers and employees organized and operated for the benefit of such workers and employees."

It has been suggested that the United Negro Trade Unions Council meets that general criteria.

A In my opinion, Mr. Counsellor, it does not meet that qualification.

Q Do you know what the council is, sir?

A The Negro Trade Union Council is an organization that's not made up of craftsmen. I assume that we are talking about craftsmen in a particular trade or craft union, and I would say that the Negro Trade Union Council is not that type of organization.

MR. WOLF: Your Honor, I think the answer is unresponsive to the question.

Perhaps if Mr. Mattioni will give Mr. Farmer a copy of the Home Rule Charter it will avoid needless cross examination on my part.

MR. MATTIONI: I will do that, Your Honor. We are here under (1), first of all.

[337] BY MR. MATTIONI:

Q My question specifically is, Mr. Farmer, whether the United Negro Trade Union Council, if you please,—

A The feeling—at least my own personal opinion of the composition of the Negro Trade Union Council is that it is one that does not fit Item No. 1 here, and I think it reads "labor union council or other organization of workers and employees organized and operated for the benefit of such workers and employees;" and my opinion is that it does not fit that category.

Q Now under subparagraph (3) provides—of course, you have it in front of you—

"A public school parent-teachers association."

A suggested possible alternative to be an organization to be used was the Black Educational Forum.

MR. WOLF: Objection,—I am sorry, I don't object.

BY MR. MATTIONI:

Q Are you familiar with the Black Educational Forum?

A Yes, sir. I am familiar with the Black Educational Forum and my opinion is that it does not meet this category either.

This reads "a public school parent-teachers association" and my interpretation of the Black Educational Forum is a group of Black administrators within the school system.

Q Now under subpart (4) it provides,

"A community organization of citizens established [338] for the purpose of improvement of public education."

Again, one of the suggested possible alternatives is the Black Educational Forum.

A My answer would be yes, that it does meet that qualification in Item No. 4.

Q Are you familiar, Mr. Farmer, with the Black Youth Forum?

A No, I am not.

Q Mr. Farmer, I take it from what you have said that you are and have been active in what sort of has been classed as the civil rights movement for many years.

A Well, I have been somewhat involved in community activities and civil rights on occasions, yes.

Q Are you familiar with the employment pattern of the City of Philadelphia?

A The City of Philadelphia's employment patterns?

Q Yes, the City as an employer

A Yes, am very familiar.

Q Can you state, Mr. Farmer, first in general terms without any breakdown as to what levels of employment we are talking about, that is, by importance of position, are you able to indicate approximately the number of Blacks percentagewise employed by the City of Philadelphia?

A Yes. The number of Blacks employed in the City of Philadelphia [339] in civil service positions and otherwise is approximately forty-one percent of the total number of employees.

Q And how does that compare, Mr. Farmer, with, for example, ten years ago?

A Oh, it's much higher than it was ten years ago. As a matter of fact,—

Q That is, the percentage of Blacks is higher?

A Oh, yes.

Q Are you able to estimate how much higher it is?

A No. I am sorry, I don't have those figures, no.

Q Is it, as far as you know and from your own experience, a substantial difference now?

A Yes, yes, there is a substantial difference.

Q Now, Mr. Farmer, in your own experience both on the Commission on Human Relations of the City of Phila-

delphia and in your general experience, can you give me an opinion as to the record of the Tate administration in terms of progress in this City achieved toward the goal of racial equality in employment?

MR. WOLF: Your Honor, I object to that.

THE COURT: What is the basis of that objection?

MR. WOLF: It establishes no qualifications of this witness as an expert to answer that.

He is the chairman of the Commission on Human Relations for the last four years. We have established it is a mayoralty [340] appointment—

THE COURT: But counsel, the previous question was asked—

MR. WOLF: All he established was that before that he was a printer.

THE COURT: No, no. The previous questions that were asked by Mr. Mattioni have been how many were employed, or at least that was his response; and he was asked about how this compared to ten years ago, was it?

MR. MATTIONI: Yes. That's correct, sir.

THE COURT: The witness said that he didn't know. Now the question is what is the record of the Tate administration in that regard; is that correct?

MR. MATTIONI: Yes, sir.

MR. WOLF: That's approximately ten years.

THE COURT: Maybe he didn't recognize the question the first time and he recognizes it now.

Is it ten years?

MR. MATTIONI: I don't know the specific number of years, Your Honor. I couldn't say.

I know it is somewhere between eight and ten years, but I don't know the specific number.

THE COURT: It is a question of relevancy and there is no jury.

[341] The witness may answer, if he can.

THE WITNESS: Yes. Although I don't believe that Blacks have enough appointments in City government, I do think that in the last four years, in the last ten years, there has been a tremendous mark of improvement among Blacks, the representation that Blacks have had in key positions in the City government, and I think much of this can be attributed to Mayor Tate and his leadership of the City government, yes.

BY MR. MATTIONI:

Q Now, Mr. Farmer, I think you have indicated that overall there are approximately forty-one percent Blacks in City employment?

A That's correct.

Q Is there a substantial difference in percentages as you go up to the higher-paid positions?

A Well, the statistics point out that twenty-three percent, approximately twenty-three percent or twenty-four percent of the management personnel in supervisory positions or middle management are minority individuals, so I would assume that you could take from that what you would like to.

In private industry, middle management, the percentage of minorities in middle management is about five, five and a half, or six percent, so you can see there has been quite a difference in what the City projects and what is projected in industry as a point of comparison.

[342] Q I take it then, of course, the higher up you go the percentages get smaller?

A Naturally.

Q With respect to representation on boards and commissions as opposed to employment positions, have you noted anything of the same kind of pattern?

A Over the last four and ten years? What period are you talking about?

Q In your own experience, as long as you have been an observer of the City government.

A I have noticed—I have observed recently that the percentage of minorities have increased on the boards and commissions over the last four to five years, yes.

MR. MATTIONI: Cross-examine.

CROSS-EXAMINATION

BY MR. WOLF:

Q What has it increased to, Mr. Farmer?

A Counsellor, I don't know what it has increased to, but I have seen indications of it increasing.

BY THE COURT:

Q Let me ask, Mr. Farmer, when you use the term "minorities", what do you mean by that?

A I am thinking of Blacks and Spanish-speaking Americans.

BY MR. WOLF:

[343] Q Mr. Farmer, has the Commission on Human Relations done a study of racial breakdowns in employment in Philadelphia?

A Yes, we have. Are you talking about City employees?

Q Yes.

A Yes, we have.

MR. WOLF: May I ask that that be produced? Mr. Farmer has testified about facts relating to employment and it seems to me that we ought to have the benefit of the Commission's study.

THE COURT: Apparently there is no objection.

MR. MATTIONI: I don't have it, Your Honor.

BY THE COURT:

Q Is that available?

A It is public information, Your Honor. As a matter of

fact, a news release was just published recently in the Philadelphia Daily News indicating these same facts.

MR. WOLF: I would just like to state—

BY THE COURT:

Q Would it be difficult to obtain the study today in order to put it in the record, or a copy of it, I assume?

A I think we can produce a copy, Your Honor.

THE COURT: Very well.

You have no objection?

MR. MATTIONI: If Your Honor please, of course, I am [344] not quite certain now what I am supposed to do other than produce a statistical document.

THE COURT: I think Mr. Wolf indicated that Mr. Farmer had testified to percentages and Mr. Farmer indicated that the commission of which he is chairman had made a study of those percentages.

I think that the actual study should be a part of the record unless counsel has some objection.

MR. MATTIONI: I have never read the study, Your Honor, so I don't know if I would or wouldn't have any objection to it.

MR. WOLF: Your Honor, it seems to me that here we have the chairman of a commission testifying about his impression. There is a study in existence. I have attempted to get it and was told that it was not public information in response to a recent letter.

I think that the document ought to be produced and that we ought to be allowed to cross-examine Mr. Farmer or whoever else produced the report.

BY THE COURT:

Q Let me just ask, do you have a copy of it with you?

A No, sir, I do not.

THE COURT: He doesn't have a copy and we are going to close this record today.

I can only say that Mr. Farmer has agreed to produce a [345] copy of it and I think he would agree to give you a copy and agree to give counsel and the Court copies.

If there is any reason why at that juncture there should be additional testimony in connection with it the Court will pass on it then.

MR. WOLF: Fine. Thank you very much.

THE COURT: But I still say—let me just ask this of Mr. Farmer.

BY THE COURT:

Q A copy, I take it, is available back in the office?

A There is one copy, Your Honor.

Q How long is this? What sort of document are you talking about?

A The document is this big and there was a news release that was public information and most of the information was confidential and the other information was information that was made public through the newspapers and the press.

Those are the files that I was quoting today.

THE COURT: All right.

He has agreed to produce a copy.

MR. MATTIONI: Of course, Your Honor, what Mr. Farmer was referring to in his answer was that portion or those portions of this document which were confidential.

I said before I don't want to be in a position of not [346] having reviewed the document and saying I have no objection. I don't know whether I would or I wouldn't.

THE COURT: I would assume by the same token

that Mr. Wolf may not want it after reading it, but he is the man who asked for it; the witness has agreed to produce it.

This court, in accordance with the way I have permitted both sides to ask questions, has said let's admit it and when we make findings we can determine what is relevant and what isn't.

MR. MATTIONI: I was only concerned now with the indication that part of it was considered confidential and I don't know what part he is talking about, not having read it.

THE COURT: I certainly don't know.

MR. MATTIONI: The only thing I am concerned with now is that there is something there which should not be disclosed to the public view. Then we would request the opportunity to bring that to your attention; that's all.

THE COURT: You will have that opportunity.

The only thing we have at the moment is that the chairman of that commission has indicated that he would produce it and if it is relevant I think it should be in evidence.

We will wait and see.

MR. MATTIONI: Yes, sir.

BY MR. WOLF:

Q Mr. Farmer, you stated that the Negro Trade Union Council [347] does not fit the definition of 12-206(b)(1).

Do you still have the charter in front of you?

Could you tell us in what respects it does not fit that definition?

A Yes. My interpretation of this, Mr. Wolf, is that an organization of unions of workers, and I think the Negro Trade Union Council has solicited its membership from the general community and not from a specific group of workers.

Q You mean they solicit non-union people?

A Right.

Q Well, based on your knowledge of trade unions, does that surprise you that a Negro trade union group, particularly since it involves building trades—do you regard it as surprising that they are not able to solicit union members?

MR. MATTIONI: Objection, sir.

There is no testimony that they are unable to solicit.

THE COURT: I will sustain the objection.

I think you could reframe the question. The question is not whether this witness is surprised or not. The question is what are the facts.

BY MR. WOLF:

Q Mr. Farmer, it is your testimony that the Negro Trade Union Council does not fit because the people who belong to it do not belong to unions?

[348] A Correct.

Q What is your experience with regard to the ability of Black workers, particularly in the building trades, to become members of the Building Trades Union?

MR. MATTIONI: Objection, sir.

I think that is not relevant in view of the fact that we are now concerned with whether this particular organization meets the definition; not why it doesn't meet it.

THE COURT: I will note your objection but in accordance with my ruling this morning we will let it in and we will pass on the relevancy later.

THE WITNESS: I would like to hear the question again.

THE COURT: I don't blame you. I would too.

What is the question?

(The reporter read the pending question as follows:)

"What is your experience with regard to the ability of Black workers, particularly in the building trades, to become members of the Building Trades Union?"

THE WITNESS: My experience has been, Mr. Wolf, that it has been very difficult for Blacks to become members of the critical trade unions, the critical building trade union.

I am aware of the difficulty of Blacks to get into the unions. It is not one of the critical trade associations, no.

[349] BY MR. WOLF:

Q Was not the difficulty that Blacks had in becoming members of unions one of the reasons for the creation of the Negro Trade Union Council?

A I don't think so. I don't know anything about what the reasons were for the recent Negro Trade Union Council. I am not sure.

Q Mr. Farmer, in (b)(2), can you name for us any organizations in the Black community that meet that definition?

A Yes, I can. The Greater Philadelphia Enterprises Development Corporation is one.

Q What else?

A Well, there is another called the Greater Philadelphia Community Development Corporation, as the second one.

Q What about No. (4), Mr. Farmer? Can you give us the names of organizations in the Black community that fit that definition?

A I would think that—I would just about think that any community organization that was identified with the public schools would fit that category.

Q Are there numbers of those associations?

A I would think that the Black Home and School Association could probably.

Q Mr. Farmer, I am sorry, under (b) it is required to be a citywide organization.

[350] A Citywide, yes. The Educational Equality League, possibly.

Q What about No. (5)?

A The Urban League, possibly the Urban League or the NAACP.

Q What about the Residents Advisory Board?

A The Residents Advisory Board could.

Q The Citywide Tenants Council?

A Yes, it could.

Q What about No. (6)?

A The Urban League, the North City Congress.

Q What about No. (7)?

A NAACP. I guess the SCLC. That's about all.

Q The Black Youth Forum?

A That could qualify, yes.

Q What about No. (9)?

A (9)? Possibly the Urban League.

Q All right.

Mr. Farmer, you are a defendant in the employment discrimination case brought in 1970 by the Commonwealth of Pennsylvania and several other organizations involving the Police Department; is that correct?

A Correct.

Q What are the allegations against you in that, sir?

MR. MATTIONI: Objected to.

This, I think, goes far afield—what the allegations [351] are there have nothing to do with this case.

Allegations are nothing but allegations.

THE COURT: Yes. I am concerned about the relevancy in this matter of what the allegations are.

If this is a question of fact within the knowledge of the witness as to what the situation is, I would per-

mit such a question; but as to the allegations I am going to sustain the objection, recognizing that people can allege anything.

BY MR. WOLF:

Q Mr. Farmer, the City's Commission on Human Relations has certain responsibilities with regard to City employment; correct?

A Correct.

Q How would you describe those responsibilities?

A Well, I guess you would say that the Commission on Human Relations has responsibility to assure everybody an equal opportunity in employment in the City government.

Q Mr. Farmer, is it true that in the last two to five years the percentage of Blacks, except in the Police Department, has increased?

A In the last how many years?

Q Say two, recently, within the last two to four to five years.

A I am not sure that I know at this point.

Q Isn't it your responsibility to assure that Blacks have equal opportunity in City employment?

[352] A Well, actually, the responsibility for the recruiting of personnel is actually the responsibility of the Personnel Department and is really not our responsibility, sir.

Q I thought you said it was your responsibility to assure that there was no discrimination.

A We look for discrimination, yes, and when we find discriminatory practices or a complaint is brought to our attention, it is our department's responsibility to try to ferret it out and see if it can't be resolved.

Q Mr. Farmer, did you have served on you a copy of the complaint in this case, I mean the police-discrimination case?

A Yes.

Q Did you read it?

A Yes.

Q Did you read the sentence in paragraph 21 of the Second Amended Complaint that discrimination against Black applicants has markedly increased over the past four years, whereas during this period forty percent of all applicants to the Police Department, the percentage of Blacks, and applications received by the department has dropped from about thirty percent in 1969 to less than about eight percent in 1970?

Did you read that?

A I remember personally reading it, but I am not familiar with it now.

[353] THE COURT: Are you standing for an objection?

MR. MATTIONI: I am waiting for the next question, Your Honor, mindful of Your Honor's statement that I shouldn't object prematurely.

THE COURT: I already sustained your objection to the question about the allegations in the complaint and I think counsel is getting dangerously close to that type of a question again.

BY MR. WOLF:

Q Did you do anything about it?

MR. MATTIONI: Objection, sir.

THE COURT: Do anything about what?

MR. WOLF: Your Honor, if I may clarify,—

THE COURT: Do anything about what?

MR. WOLF: Do anything about this allegation, about this statement.

THE COURT: I will permit the witness to answer.

THE WITNESS: I am not sure, Your Honor. Do anything when?

BY MR. WOLF:

Q When you received this or when you read this? Subsequent to the time that you read that in 1966 thirty percent of recruits were Black and in 1970 only eight percent of the recruits were Black, did you take any action?

A Sure. We have done certain things, yes.

[354] Q What action did you take?

A One of the things we did was to institute a seminar, to which we invited the Personnel Department to attend, and we made very clear to our own Personnel Department, as well as other personnel people throughout other industries and throughout the City, in the main course, the Duke Power Company decision, which we think is an important decision as far as testing is concerned, and we felt that that was an area which our Personnel Department needed some policing in.

Q Was anyone on your staff aware of this discrimination in Police Department hiring?

A No, we were not.

Q Mr. Farmer, it is true, is it not, that one of the issues that is viewed as critical by the Black community is the problem of police conduct?

MR. MATTIONI: Objection, sir.

I don't know what police conduct has to do with this case.

THE COURT: I am going to sustain that objection.

MR. WOLF: Your Honor, if I may, the basis of Mr. Farmer's testimony is that he is chairman of the Commission on Human Relations and his responsibility to do everything to see that Blacks are treated properly by the City, and his opinion testimony that Blacks have been treated very well by the City. [355] It seems to me relevant, as I have just demonstrated, that the Commission was unaware of a twenty-two

percent drop in Black recruits in the Police Department.

It seems to me relevant that police misconduct is regarded as a critical activity in the Black community and the Human Relations Commission is not responsible.

It seems to me other actions the Commission has or has not taken—

THE COURT: I have ruled on that specific question.

MR. MATTIONI: Your Honor, before you do that, let me say this:

First of all, the questions now are based on the assumption of the accuracy of the allegations in this other complaint.

Now that is a court action which is being vigorously defended and prosecuted and the final result of what may happen there is yet to come and whether the allegations are factually accurate or not, there is no evidence in this record to make a determination.

THE COURT: As a matter of fact, this witness has testified that he didn't know.

MR. MATTIONI: This witness has repeated that he didn't know and, of course, I think the only fair inference is whether that allegation is accurate and it is from this house of [356] cards that further questions are being asked.

THE COURT: Let's hear this question.

BY MR. WOLF:

Q Is it not true that police misconduct is an issue of critical importance to the Black community?

THE COURT: I am going to sustain the objection there on the ground of relevancy.

I said I was going to let most everything in, but I think we are getting a little out of the ballpark now.

BY MR. WOLF:

Q Mr. Farmer, do you think the Mayor is a fair-minded person on the question of race?

A I don't know, Mr. Wolf, how you can determine who is fair and unfair.

I would hope that the Mayor is a fair-minded person. I work for him and I work for the City of Philadelphia and I don't think that I would want to work for somebody who is unfair nor would you.

Q Do you think the Mayor's non-civil-service appointments show a fairmindedness on race?

A As I said before, Mr. Wolf, I do not really feel that the City has been actually completely supporting of the Black community as it should have been.

I really believe that many of the appointments there [357] should have gone to more Blacks and the more minority appointments, and I think that the Mayor has done a pretty good job if you compare what he has done with other mayors in the past.

Q Do you think five out of fifty-three of over $20,000 appointments is a pretty good job or any kind of a job at all?

A I am not familiar with five out of fifty-three.

Q Well, I have them here. Here is a list. I am sorry, it is fifty-six.

Here is a list of non-civil-service appointments over $20,000 in the City at the present time, fifty-six of them, and there are five Blacks—yourself, Mr. Hardy, Mr. Scruggs, Mrs. Watson, and Mrs. Duckery.

Your position is that that's a pretty good job?

A Well, I think the Mayor has improved over the other mayors who made appointments in the City of Philadelphia.

Q O.K.

I take it you regard an increase from zero to one on a number of these boards and commissions and authorities as the Mayor doing better than the previous mayors?

A I can consider that is an improvement.

Q All right, just as long as we know that's what you are talking about.

Mr. Farmer, what was your response when the Educational Nominating Panel was named and there was only one Black on it?

[358] A Well, my own personal response?

Q Yes.

A My own personal feeling was that I felt that there should have been more, more representatives from the minority community, yes.

Q Did that appointment bolster your view that the Mayor was fair-minded with regard to race?

A I think the Mayor has to weigh very carefully how he makes his appointments and who he appoints; and I have no reason to pass any judgment one way or the other on the Mayor's appointments.

Q Do you think that the appointment process in the context relating to the School Board is particularly important to the Black community?

A Absolutely.

Q Why?

A Well, first of all, the majority of the schools, the personnel of the schools, are made up primarily of Blacks. I think that the average person in the average Black community looks to the schools as a source of, well, where you can look to the schools as a place where they go to develop understanding in the community.

I think the schools play an important part in their scheme in the Black community and, therefore, I think it's important that we give them as much support as we possibly can.

MR. WOLF: I have nothing further.

[359] MR. MATTIONI: No questions.

THE COURT: Thank you very much, Mr. Farmer.

THE COURT: Now your next witness, Mr. Mattioni.

MR. MATTIONI: He has been sequestered, Your Honor. I will bring him in.

THE COURT: You don't want to run a few of these fellows now because I recognize they have some valuable time commitments.

(Discussion off the record.)

JAN VAGASKY, having been duly sworn, was examined and testified as follows:

THE COURT: Do you have his background summary there?

MR. MATTIONI: I have it in the pretrial order.

THE COURT: Do you wish to read into the record whatever you want the record to contain about his background in order to expedite the matter?

I thought we had agreed on that.

MR. WOLF: I am perfectly happy to stipulate to what is in the pretrial order. I don't know what that does.

THE COURT: Let's ask Mr. Mattioni to state that, just to expedite.

He will read your background and let me just say if [360] you have any objection to anything he reads you just raise your right arm and we will correct it.

MR. MATTIONI: 3-3-71 through 8-29-71 this

witness was employed by the City of Philadelphia as an industrial liaison officer. From August 30, 1971 to the present time as City Economist.

His educational background is the receipt of his Baccalaureate from the State Gymnasium, Presov, Czechoslovakia; two years study at Hanbels-Hochschule in St. Gallen, Switzerland, and a Bachelor's and Master's degree in Economics from Columbia University, New York.

MR. WOLF: Your Honor, I think I would ask for an offier of proof at this point so I know whether or not to ask Mr. Vagasky any other questions.

THE COURT: Yes.

MR. MATTIONI: If Your Honor please, I intend to prove through Mr. Vagasky the national statistics on employment in the range of $15,000 and over and to have him show a comparison between the national statistics and the City of Philadelphia statistics, which will show that civil service employees in the $15,000 and over category represent 6.7 percent of the work force.

THE COURT: For my information, are we comparing the Philadelphia situation with other governmental situations or just with national figures?

[361] MR. MATTIONI: With national statistics.

THE COURT: Generally?

MR. MATTIONI: But also to show the statistics in the City and the difference between civil service, non-civil service, and the Mayor's appointments to boards and commissions to show the increase in percentages.

THE COURT: Increase since when?

MR. MATTIONI: The increase by comparison, a comparative difference between civil service $15,000 and over, civil service and exempt, an aggregate figure, exempt employees, which are Mayor's appointments, exempt employees $20,000 and over, because those

were the figures given by the plaintiffs, and the Mayor's appointments to boards and commissions.

I will ask the witness to draw a conclusion as to what that represents.

THE COURT: Let's proceed.

I think maybe you will have objection by-way of cross-examination here.

DIRECT EXAMINATION

BY MR. MATTIONI:

Q Now, Mr. Vagasky, have you reviewed the latest data submitted by the Bureau of the Budget respecting the proportion of Black people among the highest-paid persons in America?

A I have looked at the consumer income statistics. I assume [362] that's what you are referring to.

Q Now can you tell what those statistics reveal with respect to the percentage of Black persons in the population who earn in excess of $15,000 a year?

A Well, the ones I was reviewing showed about ninety-eight percent of the White population earning $15,000 or more. If you include the state employment—federal, local, and state employment—the statistics go down to about ninety-six percent.

So I comment that the percentage of Blacks versus Whites would be between twenty-two, really 66 to 89. Okay?

Q Have you had an opportunity to review the number of Black persons in civil service positions earning $15,000 and upwards employed by the City of Philadelphia?

A I saw the statistics shown to me. I believe they were prepared from the data provided by the Department of Finance, and to the best of my recollection they went from 6. something all the way to about 12. There might be some decimal-point variations. I see so many figures that I can't recollect all of them. It varies from 6 to 12 in progres-

sive ratio starting with civil service and finishing with the Mayor's appointments.

Q In other words, you are saying that the lowest percentage is in the civil-service area?

A That's correct.

Q And that the percentage increases as you get up to the Mayor's [363] appointments?

A The Mayor's appointments, based on the statistical data shown to me.

Q Now are you able to draw any conclusions with respect to the Mayor and how he relates to the percentage of appointments of Blacks, percentage of initial employment with the City or appointment of Blacks to other positions?

A Obviously, those were the lowest statistics, the sixty-seven percent. There is less chance of people being employed because of professional requirements.

I assume that the twelve percent, which indicates the Mayor's appointments, amounts more to appointing the people that he thinks should be done. That's the only deduction I can make.

MR. MATTIONI: Cross-examine.

CROSS-EXAMINATION

BY MR. WOLF:

Q Mr. Vagasky, where did you get the nationwide figures?

A From the Consumer Income figures. It's the Bureau of Standards, Department of Commerce publication.

Q Do you have a copy of it here?

A Not with me, but I assume it is over there.

MR. WOLF: I wish the record to show this is the first time I have been shown this information.

MR. MATTIONI: May the record show that you were [364] advised specifically what I intended to prove by this witness last week.

MR. WOLF: But I was not told what sources of information you intended to use.

BY MR. WOLF:

Q Perhaps, so I don't read all of the materials trying to find the relevant ones, perhaps you can show me what you used.

A Some of these right over here.

Q This is race and farm, non-farm residents, families, and non-resident individuals by total money income.

What does this mean?

A May I have it?

It indicates what is the income of the population based on—according to annual rates.

Q I see.

So this is for all families in the country?

A Correct. I assume the Virgin Islands would be the same thing.

Q This seems to me to indicate that 9.5 percent of all Negro families have incomes of over $15,000; is that correct?

A You are adding the figures down here. This is correct.

Q That's correct.

A Using the base you see over here. O.K., that's the base figures.

[365] Q All right.

So 9.5 percent of the Black families have incomes over $15,000?

A That's correct.

Q Are you at all familiar with the employment patterns in the Black community with regard to the number of wageearners that there are in the Black families?

A I didn't make any study, if that is what you ask me, no.

Q Are you familiar with the fact that the census will show that there are in Black families more often two wage-earners than in White families?

A I am aware of it.

Q That would tend to suggest that the number of jobs held by Black individuals earning $15,000 or over is somewhat less; is that right?

A That's correct; and that is shown in another table. I can't remember now, but when you used the statistics using only the Black males, then the percentage is lower.

Q You did testify, did you not, something about 2 percent and 4 percent?

A That's correct. That was done on a national basis.

Q Where did you find that in here?

A (The witness indicated.)

Q I see. This is males, male wageearners, by sex.

[366] Over $15,000 it is 1.4 percent in the Black community. This is farm and non-farm income; is that correct?

A The heading is on the table. I don't know which one you are looking at.

Yes, farm and non-farm labor.

Q Do you have any idea what the percentage of Blacks are who are involved in farm activity as opposed to Whites?

A No.

Q Is that disclosed here?

A Not on any table that I had. I am sure that you can find it. It's a question of digging.

Q Wouldn't that have some effect on that particular statistic?

A Not particularly, because you are going by the income. You establish how much a person or a family is earning, so if you are going by a family, yes; going by persons, no.

Q Persons, no? Does that add anything?
A I don't think so.

MR. WOLF: I wonder whether we could get the exact figures into the record. I think the best way to do this would be to mark these and introduce them.

Would that be all right?

Neither of us has copies, but I wonder if we could make this Plaintiffs' Exhibit 6, being "PAYROLL DATA ON CITY EMPLOYEES In Salary Ranges $15,000—$20,000," and offer it.

[367] Included on there is the percentage of those that they knew to be Black, so there is the possibility of some degree of error, but I think it is reasonably accurate.

(Two-page document entitled on the first sheet "PAYROLL DATA ON CITY EMPLOYEES In Salary Ranges $15,000—$20,000" was marked Plaintiffs' Exhibit P-6 for identification.)

MR. WOLF: And then P-7 will be "ANALYSIS OF TABLE 2 OF CURRENT POPULATION REPORTS—CONSUMER INCOME."

(Sheet entitled "ANALYSIS OF TABLE 2 OF CURRENT POPULATION REPORTS—CONSUMER INCOME" was marked Plaintiffs' Exhibit P-7 for identification.)

MR. WOLF: Thank you.

I have no further questions.

MR. MATTIONI: I have no questions.

THE COURT: Thank you very much.

DR. RICHARD CAPLAN, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MR. MATTIONI: Dr. Richard Caplan resides at 1801 John F. Kennedy Boulevard, Philadelphia, Pennsylvania. He is a graduate of Ohio State University, the University of Cincinnati.

BY MR. MATTIONI:

Q Doctor, I think the shorter way is for you to read your own

* * *

PAYROLL DATA ON CITY EMPLOYEES

In Salary Ranges $15,000-$20,000

Categories	*Total Persons*	*No. of Blacks*	*Percentage of Blacks*	*Percentage of Whites*
*Civil Service Employees ($15,000 plus)	791	49	6.07	93.93
*Civil Service & Exempt Employees ($15,000 plus)	883	58	6.56	93.44
*Exempt Employees ($15,000 plus)	92	9	9.12	90.88
*Exempt Employees ($20,000 plus)	56	5	9.10	90.90
**Mayor's Appointments to Boards, Commissions, etc.	388	47	12.11	87.89

*The data presented herein is based upon the payroll data of the City of Philadelphia for the period ending August 29, 1971. Black persons were identified by members of the staff of the Commission on Human Relations.

If there is error, it is in the failure to identify persons as Black rather than identifying as Black persons who aren't.

**This data is based upon information admitted as true and obtained from lists from the Administrative Board of the City of Philadelphia with Black persons identified by members of the staff of the Commission on Human Relations.

Source: Department of Finance Payroll Section

ANALYSIS OF TABLE 2
OF CURRENT POPULATION REPORTS—CONSUMER INCOME
Series P-60, No. 79—July 27, 1971
(Household as of March, 1971)

Race of Head

Subject	*All Households in Thousands*	*Percentage Over $15,000*	*Households in Thousands*	*%*
Total	64,374	19.1	12,295	100.0
White	57,575	20.3	11,687	95.9
Black	6,180	8.2	506	4.1

Source: Series P-60, No. 79
Current Population Report